

JOINT BUDGET COMMITTEE



STAFF FIGURE SETTING FY 2020-21

STATEWIDE COMPENSATION POLICIES

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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CONTENTS

Compensation Policies Overview.....	1
(1) New Compensation Policy Line Item and Legislation Requests	6
➔ Paid Family Leave.....	10
➔ Legislation – Transfer \$15.0 Million from the SERF to the GF	11
➔ Legislation – \$75.8 Million General Fund to Unwind the Pay Date Shift for Executive Branch Employees.....	12
(2) Salary	13
➔ Calculation of Base Salary.....	13
➔ Base Salary Estimate.....	13
➔ Salary Range Adjustment.....	14
➔ Salary Increase.....	15
➔ Shift Differential	22
(3) Benefits	22
➔ Health, Life, and Dental.....	26
➔ Short Term Disability.....	26
(4) Other non-salary/non-benefit Components	28
➔ Amortization Equalization Disbursement (AED).....	28
➔ Supplemental Amortization Equalization Disbursement (SAED).....	28
➔ PERA Direct Distribution.....	29
(5) Summary of Compensation Components.....	33
(6) Compensation Assumptions for New FTE.....	34
➔ Compensation Assumptions for New FTE.....	35
(7) Request and Recommendation Compensation Components by Department	35
Long Bill Footnotes and Requests for Information	42
Appendix A: Paid Family Leave Request	43
Appendix B: Dec. 6, 2019, AG's Office Informal Opinion Memorandum.....	50
Appendix C: NCSL, Jan. 2019, Paid Leave for State Employees by the States.....	53

HOW TO USE THIS DOCUMENT

Compensation policies overview covers the basics of compensation policies. Section 1 discusses new compensation policy line item requests. Sections 2 through 4 cover existing compensation policy line items including salary components, benefits components, and other non-salary/non-benefit components. Section 5 provides a summary table of all requested and recommended compensation

component line items. Section 6 includes a policy decision item for appropriation assumptions for new FTE. Section 7 provides all requested and staff recommended components by department.

COMPENSATION POLICIES OVERVIEW

The Department of Personnel produces an annual total compensation report to compare the State's compensation to prevailing market rates. The General Assembly is not required to follow the recommendations of the report, but the report expresses the professional opinion of the Department regarding how compensation should be adjusted annually. Following issuance of the report, the Department of Personnel works with the Office of State Planning and Budgeting (OSPB) to build the total compensation request for the following year, and directs executive agencies to apply consistent policies in their budget requests.

During the annual budget process, the Joint Budget Committee and the General Assembly finalize compensation common policies, which determine the amount of salary and benefit increases. Historically, in addition to salary and benefit increases, Committee policy establishes standard methods for calculating base salaries and for determining the cost of compensation for new FTE.

Compensation common policies generally apply to a subset of all compensation that excludes higher education institutions. A large portion of positions at the higher education institutions are exempt from the constitutionally created State Personnel System, and so the compensation for those positions is not bound by the same job classes and pay ranges. Nevertheless, there are still a significant number of positions at the higher education institutions that are part of the State Personnel System. So, while the common policies are not developed to apply to the higher education institutions, it is important to consider that the common policy decisions will impact expenditures by the higher education institutions.

Staff recommendations in this document are based on the objective of providing state employees with prevailing compensation, based on the statutory guidance in Section 24-50-104 (1), C.R.S.:

It is the policy of the state to provide prevailing total compensation to officers and employees in the state personnel system to ensure the recruitment, motivation, and retention of a qualified and competent work force. For purposes of this section, "total compensation" includes, but is not limited to, salary, group benefit plans, retirement benefits, performance awards, incentives, premium pay practices, and leave.

THE FY 2020-21 ANNUAL COMPENSATION REPORT

The FY 2020-21 Annual Compensation Report from the Executive Director of the Department of Personnel identifies that base pay accounts for 78.6 percent and benefits account for 21.4 percent of the total compensation package, including 12.6 percent for health, life, dental, and long-term disability benefits and 8.8 percent for retirement benefits.

At the median, the State's total compensation package is identified as 11.5 percent below the prevailing market; this compares to 9.2 percent below in the prior year. Annual base salary is analyzed using the average of actual salaries – not salary ranges, which are analyzed separately. The report identifies that the State's average base salary for state employees lags the market median by 4.8 percent. Medical benefits are identified as 17.0 percent below market and dental benefits are 3.0 percent below market.

The value of retirement benefits is identified as 20.6 percent below market (inclusive of payments for social security). Following changes included in S.B. 18-200, it is determined that the State's retirement benefit to employees has decreased from 16.0 percent to 11.0 percent of annual salary; the market average for retirement benefits is valued at 14.1 percent of base salary and the median is 12.9 percent of base salary. Changes included in S.B. 18-200 decreased the value of the retirement plan as a percent of annual salary due to increased employee contributions, a reduced cost of living adjustment cap, and an extended highest average salary calculation.

The report identifies that employee pay is projected to increase by 3.0 percent in the market over the next year and to maintain alignment with the market, the report states: "The State should consider providing merit, COLA, or other salary adjustments of 3% in accordance with compensation philosophy and strategy."

The report identifies that the State salary range structure is 2.5 percent below the market range midpoint. The report identifies that the projected salary structure increase for the market is 2.0 percent for FY 2020-21 and recommends that range minimums and maximums for all occupational groups be increased by 2.0 percent to ensure the State's salary range structure remains competitive.

THE FY 2020-21 TOTAL COMPENSATION REQUEST

The FY 2020-21 request, including estimated salary base, is \$2.86 billion total funds, an increase of \$174.5 million over the FY 2019-20 appropriation. This represents a 6.5 percent increase in total compensation-related appropriations compared to the prior year. This includes a 7.8 percent increase in the estimated salary base and a 2.2 percent increase in statutory and discretionary, non-salary-base compensation components.

Of the \$174.5 million increase in total compensation, \$160.6 million, representing 92.0 percent of the total, is the increase in the salary base, which represent budget policy decisions already made through prior year budget actions and legislation. Of the \$174.5 million increase in total compensation, \$13.9 million, representing 8.0 percent of the total, is the increase in statutory and discretionary, non-salary-base compensation components that are the subject of this figure setting. When compared to the FY 2019-20 total compensation amount, the request for statutory and discretionary compensation components represents a 0.5 percent increase over FY 2019-20 total compensation.

The FY 2020-21 total compensation request includes the following components:

SALARY SURVEY: The executive branch Salary Survey request includes:

- A 2.0 percent across-the-board or ATB salary increase for all occupational groups including all State Patrol Trooper classes;
- A 2.0 percent salary range adjustment for all occupational groups; and
- A system maintenance request for salary structure adjustments for the Electronic Engineer, Electronics Specialist, and Customer Support Coordinator class series at a statewide cost of \$5,959.

The Judicial Department includes an independent salary survey increase request at a cost of \$5.0 million total funds, including \$4.9 million General Fund. The Judicial request is based on a Segal Waters salary survey report with recommended increases and matching salary adjustments by occupational class for 21 classes that range from 2.0 to 10.0 percent, with an average increase of 3.8 percent. The Judicial request includes a 2.0 percent increase for judges and executive level employees with salaries linked to judges compensation.

The Department of Law request totals \$1.3 million, including \$355,000 General Fund, is based on a Gallagher salary survey report, and includes the following components:

- A 2.0 percent increase for classified employees;
- A 2.5 percent increase for all attorney classes, except Deputy; and
- A 4.0 percent increase for the Deputy AG class.

The Salary Survey request (executive branch and requests from Judicial and Law) totals \$41.6 million, including \$22.2 million General Fund.

MERIT PAY: The Governor's request includes no Merit Pay increase. However, Judicial includes a request for \$4.7 million total funds, including \$4.3 million General Fund, for an average 2.0 percent increase. Employees other than judges and executive level employees with salaries linked to judges are included in the merit increase. The Department of Law includes a request for \$431,931 total funds, including \$103,000 General Fund, for a 1.1 percent merit increase for attorneys.

The Merit Pay request (Judicial and Law) totals \$5.1 million, including \$4.4 million General Fund.

SHIFT DIFFERENTIAL: Shift Differential funds increase adjustments for employee hours worked outside of normal work hours. Shift Differential is requested at 100 percent of prior year actual expenditures.

The Shift Differential request totals \$18.1 million, including \$14.2 million General Fund.

Shift Differential increases by \$47,000 total funds, including \$989,000 General Fund; a 0.3 percent increase in total funds and a 0.4 percent increase in General Fund.

AED: Amortization Equalization Disbursement is set at a statutory rate of 5.0 percent, except for judges set at 3.8 percent in 2020 and 4.2 percent in 2021.

The AED request totals \$100.5 million, including \$56.2 million General Fund.

The AED increases by \$3.7 million total funds, including \$2.2 million General Fund; a 3.8 percent increase in total funds and a 4.1 percent increase in General Fund.

SAED: Supplemental Amortization Equalization Disbursement is set at a statutory rate of 5.0 percent, except for judges set at 3.8 percent in 2020 and 4.2 percent in 2021.

The SAED request totals \$100.5 million, including \$56.2 million General Fund.

The SAED increases by \$3.9 million total funds, including \$2.4 million General Fund; a 4.0 percent increase in total funds and a 4.5 percent increase in General Fund.

STD: Short Term Disability provides partial payment of an employee's salary if an individual becomes disabled and cannot perform work duties. STD is requested at a continuation rate of 0.17 percent of revised base salaries.

The STD request totals \$3.3 million, including \$1.8 million General Fund.

The STD increases by \$103,000 total funds, including an increase of \$49,000 General Fund; a 3.3 percent increase in total funds and a 2.8 percent increase in General Fund.

HLD: Request amounts submitted for Health, Life, and Dental are based on employee health and dental elections as of July of the current year. Health premiums are projected to increase 5.0 percent and dental premiums are projected to increase 3.0 percent.

The HLD request totals \$309.8 million, including \$178.4 million General Fund.

The HLD increases by \$22.5 million total funds, including \$9.4 million General Fund; a 7.8 percent increase in total funds and a 5.6 percent increase in General Fund.

PERA DIRECT DISTRIBUTION: In FY 2019-20, a common policy allocation to state agencies was added for the State's \$225.0 million statutory PERA Direct Distribution payment. This allocation was added to common policies to charge cash and federal funds sources for what would otherwise be a General Fund payment. The allocation is not created in statute as a calculation on payroll but was handled as a budget process allocation. The methodology agreed upon in 2019 is that the allocation to fund sources by state agency should match the proportions included for the AED and SAED appropriations.

The executive branch has submitted this common policy as an operating common policy. However, JBC staff will continue to reflect this item as a compensation common policy for PERA amortization payments for the unfunded liability. Operating common policies are services provided to state agencies by a centralized service provider. There is no service provided for the PERA Direct Distribution common policy payment. This is simply a payment to PERA that reduces the State's General Fund obligation that is more similar to the existing AED and SAED amortization payment policies.

The PERA Direct Distribution request totals \$54.1 million, including \$27.2 million General Fund.

This reflects a decrease of \$2.4 million from FY 2019-20. The total PERA Direct Distribution is allocated to the public schools divisions and the state employee divisions of PERA based on total payroll. This decrease indicates that total payroll for public schools increased relative to total payroll for state employees.

ORDER OF OPERATIONS

The following tables illustrate the order of operations for calculating salary adjustments pursuant to State Personnel Rules.

ORDER OF OPERATIONS - EMPLOYEE LEVEL		
BASE SALARY		\$50,000
1. Salary Survey	1.0%	500
Revised Base (base plus SS)		\$50,500
2. Merit Pay	2.0%	1,010
Revised Base (base plus SS and MP)		\$51,510

Once the Salary Survey and Merit Pay adjustments are determined at the individual employee level, the adjustments are aggregated to the department level.

ORDER OF OPERATIONS - DEPARTMENT LEVEL		
DEPARTMENT BASE SALARY		\$1,000,000
1. Salary Survey	1.0%	10,000
Dept. Revised Base (base plus SS)		\$1,010,000
2. Merit Pay	2.0%	20,200
Dept. Revised Base (base plus SS and MP)		\$1,030,200
3. Shift Differential		\$100,000
Dept. Revised Base (base plus SS, MP, Shift)		\$1,130,200
4. AED	5.00%	56,510
5. SAED	5.00%	56,510
6. STD	0.17%	1,921

AED, SAED and STD are calculated on the department revised base salary comprised of base salary, Salary Survey, Merit Pay, and Shift Differential. Changes to the Salary Survey and Merit Pay percentages will change each of the elements which follow in the order of operations (except for Shift Differential, which is historically appropriated at the most recent fiscal year actual usage).

(1) NEW COMPENSATION POLICY LINE ITEM AND LEGISLATION REQUESTS

PAID FAMILY LEAVE

The Department of Personnel has submitted request item R1 Paid Family Leave as a Department operating request. A similar item for Paid Parental Leave was submitted in the FY 2019-20 budget process as a compensation common policy budget amendment. The Department of Personnel requests statewide spending authority for identified departments totaling \$10.0 million total funds, including \$7.4 million General Fund. The request includes identified out-year spending authority totaling \$10.3 million. The Department's request narrative is attached as appendix A.

This appropriation is identified as providing funds to backfill costs associated with state employees utilizing up to eight weeks of paid family leave. The backfill policy would apply to departments that have critical positions that must be filled, including 24-hour, 7-day work centers, direct care positions, and hourly non-exempt positions. The following table outlines 92 identified job classifications that require backfill.

JOB CLASSIFICATIONS THAT REQUIRE BACKFILL			
Chaplain I	Dining Services I	Labor/Employment Spec II	Physician II
Child Care Aide	Dining Services II	Labor/Employment Spec III	Social Work/Counselor I
Client Care Aide I	Dining Services III	Labor/Employment Spec Int	Social Work/Counselor II
Client Care Aide II	Dining Services IV	Labor/Employment Spec IV	Social Work/Counselor III
Clinical Therapist I	Dining Services V	Labor/Employment Spec V	Social Work/Counselor IV
Clinical Therapist II	Early Childhood Educ I	Laboratory Technology I	State Teacher Aide
Clinical Therapist III	Early Childhood Educ II	Laboratory Technology II	State Teacher I
Clinical Therapist IV	Guardsmen	Laboratory Technology III	State Teacher II
CorrSupp Trades Supv I	HCS Trainee I	Laboratory Technology IV	State Teacher III
Corr/Yth/Clin Sec Off I	HCS Trainee II	Mental Hlth Clinician I	State Teacher IV
Corr/Yth/Clin Sec Off II	HCS Trainee III	Mental Hlth Clinician II	Technician I
Custodian I	Health Care Tech I	Mental Hlth Clinician III	Technician II
Custodian II	Health Care Tech II	Mid-level Provider	Technician III
Custodian III	Health Care Tech III	Museum Guide	Technician IV
Custodian IV	Health Care Tech IV	Nurse I	Technician V
Dental Care I	Health Professional I	Nurse II	Therapy Assistant I
Dental Care II	Health Professional II	Nurse III	Therapy Assistant II
Dental Care IV	Health Professional III	Pharmacist I	Therapy Assistant III
Dental Care V	Health Professional IV	Pharmacist II	Therapy Assistant IV
Dentist I	Health Professional V	Pharmacist III	Veterinary Technology I
Dentist II	Health Professional VI	Pharmacy Technician I	Veterinary Technology II
Dentist III	Health Professional VII	Pharmacy Technician II	Veterinary Technology III
Dietitian II	Labor/Employment Spec I	Physician I	Veterinary Technology IV

STATUTORY AUTHORIZATION

The Department assumes it has broad authority, including the following in its request narrative:

The State Personnel Director is granted the authority to prescribe procedures for the types, amounts, and conditions for all leave benefits, that are typically consistent with prevailing practices in 24-50-104, C.R.S.

Section 24-50-104 (1)(g), C.R.S., states (emphasis added):

*(1)(g) Benefits shall include insurance, retirement, and leaves of absence with or without pay and may include jury duty, military duty, or educational leaves. The state personnel director shall prescribe procedures for the types, amounts, and conditions for all leave benefits that are typically consistent with prevailing practices, subject to the provisions governing the benefits provided in subsection (7) of this section. **The general assembly shall approve any changes to leave benefits granted by statute before such changes are implemented.** The state personnel director shall prescribe by procedure any nonstatutory benefits.*

Section 24-50-104 (7), C.R.S., referenced in subsection (1)(g) as the area in which the State Personnel Director is provided statutory authority to prescribe procedures, sets out the following items:

- (7) **Leaves.** (a) No employee shall earn more than ten days of sick leave per fiscal year. No employee may retain accumulated sick leave in excess of forty-five days at the end of any fiscal year; except that any employee who had accumulated sick leave prior to July 1, 1988, shall retain such leave and may accumulate a maximum of forty-five additional days. Any excess accumulation may be converted to annual leave at the rate of five days of sick leave to one day of annual leave up to a total of two days per fiscal year. A medical certificate form from a health care provider shall be required for absences of more than three full consecutive working days, or the use of sick leave shall be denied.*
- (b) The procedures of the state personnel director shall provide that no more than two days of paid leave per fiscal year shall be granted for organ, tissue, or bone marrow donation for transplants. Such leave may not be accumulated.*
- (c) The state personnel director may establish procedures to allow the transfer of annual leave between employees when one employee, or an immediate family member of the employee, experiences an unforeseeable life-altering event beyond the employee's control. The recipient of any annual leave shall have a minimum of one year of state service and exhausted all applicable paid leave, including any compensatory time.*
- (d) An employee certified as a disaster service volunteer of the American red cross may be granted paid leave for specialized disaster relief services. Such leave shall not exceed five days for a local disaster or fifteen days for a national disaster in a twelve-month period. Such leave may not be accumulated. During this period of leave, an employee shall not be deemed to be an employee for purposes of the "Workers' Compensation Act of Colorado", as provided in articles 40 to 47 of title 8, C.R.S. The leave authorized by this paragraph (d) shall run concurrent with and shall not be in addition to any paid leave of absence required by law for service by a member in a Colorado civil air patrol mission as provided in section 28-1-104, C.R.S., or for qualified volunteer service in a disaster as provided in section 24-33.5-825.*

The Department of Personnel submitted an Informal Opinion Memorandum from Assistant Attorney General Evan Brennan in the Attorney General's Office. This memorandum is attached as appendix B.

The memorandum states that the types of leave identified in subsection (7) are the only types of leave identified in law which specify State Personnel Director adherence to legislative authority through statutory guidance. All other types of leave, not specified but consistent with prevailing practices, are within the State Personnel Director's authority to prescribe. The conclusion states:

For the foregoing reasons, we believe that, should the Personnel Director determine that paid parental leave is "typically consistent with prevailing practices" for determining "total compensation," she is empowered to adopt a paid parental leave benefit for employees in the state personnel system.

Guidance received from staff attorneys at OLLS is that legal authority hinges on whether it is considered that paid parental leave policy is a prevailing practice for employee benefits in the State's comparison market.

Staff received a research document from the National Conference of State Legislatures (NCSL) outlining leave policies provided in other states. This document is attached as appendix C. The document identifies leave policies in 14 states, including:

- Four weeks of paid maternity leave in Arkansas;
- Paid Family Leave insurance run through the Temporary Disability Insurance program in California funded by payroll deductions of 0.9 percent from employee wages, including up to six weeks of leave with 55 percent wage replacement up to a maximum of \$1,252 per week in 2018.
- 12 weeks for birth or adoption in Delaware.
- 150 hours of paid leave through a 2017 executive order in Indiana.
- Six weeks of paid parental leave in the executive branch through a 2018 executive order in Kansas.
- 60 days of paid leave for birth or adoption in Maryland.
- Employees in Massachusetts are covered under the state universal paid family leave law that will provide 12 weeks of family leave beginning in 2021, and is funded by a 0.63 percent payroll tax on employees and a maximum weekly benefit of \$850.
- In New Jersey, six weeks of family leave is provided under the universal Paid Family Leave law included within the Unemployment Compensation Law, and provides 66 percent of average weekly wage up to a maximum of \$650.
- 12 weeks of paid leave to care for a new child in New Mexico through executive order, estimated at an annual cost of \$5 million.
- Eight weeks maternity leave and four weeks adoption leave in North Carolina through executive order.
- Up to four weeks of leave for birth or adoption at 70 percent of pay in Ohio.
- Employees in Rhode Island are eligible for four weeks of paid family leave covered under the state universal paid family leave law run out of the temporary disability insurance program and funded by a 1.2 percent payroll deduction, with a maximum benefit of \$795 per week.
- Eight weeks of paid leave for birth, adoption, or foster placement in Virginia through executive order.
- Employees in Washington are eligible for up to 12 weeks of family leave under the state's universal Paid Leave Law which established an insurance program funded by a 0.4 percent payroll deduction with a maximum benefit of \$1,000 per week.

While most related parental and family leave policies have been added in the last few years, at this point, staff would question whether 14 of 50 states reaches a level that could be considered a prevailing practice among state governments. And among those states, the types of benefits and costs vary; there is not really a standard parental or family leave policy.

The annual compensation report identifies that the prevalence of Paid Parental Leave among the surveyed employers is 38 percent. It identifies that among those employers offering such a benefit, 63 percent mirror federal Family Medical Leave Act (FMLA) guidelines, 13 percent are identified as having more generous benefits than FMLA, and 25 percent are identified as other. The annual compensation report also identifies that the median and average length of benefit is seven weeks.

Definitions for the term, *prevail*, include: to be widespread or current; exist everywhere or generally; to appear or occur as the more important or frequent feature or element; predominate. At 38 percent in the annual compensation report, higher than the 28 percent prevalence reported among the states, even this figure does not appear to meet the definition of prevail.

TECHNICAL CONCERNS

1. Specifics are not provided on the metrics used to generate the allocations by departments, including breakdowns by cash and federal funds sources. Staff is unable to assess whether the methodology for such an allocation is accurate.

2. However, even if staff were to concede that the methodology used to structure the common policy allocation to all departments is sound, staff remains concerned regarding the payment structure.

The allocation methodology treats this program as if it is an "insurance" program, abstracting usage at the statewide level. The methodology is based on some total assumed statewide usage, then split on some equal basis across the backfill costs for identified critical positions as those positions are located in particular departments. But the program then structures appropriations by department with the expectation that department level appropriations – and even identified appropriations from program level cash and federal fund sources – will be adequate for the anticipated cost experience.

As an example, a \$1,460 cash funds appropriation for the Limited Gaming Fund in the Department of Revenue is not going to go very far to backfill an 8-week leave of absence for an employee of the Gaming Division. Such a shortfall in the appropriation would have to be addressed in one of two ways: a General Fund subsidy or a supplemental true-up. Now consider that problem across all potential cash and federal fund sources, all with fairly small identified appropriations for this policy.

The cost structure assumes that this program will function like an insurance program with some anticipated "actuarial" or "claims" usage across agencies and fund sources. But the appropriations structure does not pool the money into a single, statewide insurance pot for this purpose. If this system were structured as "premiums" payments that flow into such a pot with claims paid from the pot, such a statewide cost allocation might be functional. With appropriations set in departments as communicated in the request, staff believes this fiscal structure is unsustainable, will generally fail, and will require either substantial General Fund subsidies or cash and federal funds supplemental true-ups through the appropriations process.

3. The design of the policy assumes there are two types of state employees: (1) those in critical service positions which require backfill to hire and pay a temporary replacement employee; and (2) all other state employees. The second designation is to assume that these are generic state employee office workers. Likely there is an additional assumption that these are General Funded, salaried employees. Their presence or absence will be paid regardless and their organizations will have to cover the workload as necessary.

However, these assumptions miss a wide range of state employees that fall between a prototypical General Funded, salaried office worker and a 24-7 service critical employee. As one example, consider a federal funded employee paid by a federal grant which requires billable hours reported to draw down federal funds for the position. How should an organization proceed to pay such an employee through a Paid Family Leave policy when the organization lacks billable hours for the employee?

Treating state employees as either service critical requiring backfill and all others not requiring backfill, does not address the myriad ways in which state employees are paid for the work they do. On this basis, this policy appears to lack a level of consideration and vetting necessary to ensure that all state employees can receive and state agency organizations can legally and transparently pay for a Paid Family Leave benefit. It is likely that the State would have to subsidize with General Fund those positions which are not considered service critical but are contractually based on billable hours or some other measurable service deliverable.

4. Finally, staff assumes that the assumed usage metrics were generated based on statewide historical experience with federal Family Medical Leave Act or FMLA benefits usage. Historical experience is likely based on state employees who chose to use leave without pay in order to access FMLA time off. It is likely that once a paid benefit is made available, employee usage will increase. Staff does not believe this to be a critical failure for implementation of this policy. However, clear tracking and reporting should be included as a part of any policy that might be implemented on the basis that costs are anticipated to increase. Staff is generally concerned that the identified costs may be understated even in the first year.

Staff suggests that costs identified through the legislative fiscal note process would be the fairest way to assess anticipated first- and out-year costs for any leave policy design clearly structured in statute. Based on guidance from staff attorneys at the Office of Legislative Legal Services (OLLS), there is not clear statutory authority for the Department of Personnel to create such a benefit administratively. It is staff's opinion that the decision to offer such a benefit is a larger, non-budget policy decision better addressed by the General Assembly through the legislative process than by the JBC through the budget process.

Staff recommends that the Committee not cede the constitutional authority of the legislature by funding such a policy without statutory guidance. Staff recommends that if the Committee is interested in pursuing such a benefit for state employees that the Committee refer a recommendation for legislation to a committee of reference, given the public testimony that such a policy concept would likely necessitate.

DECISION ITEMS – PAID FAMILY LEAVE

➔ PAID FAMILY LEAVE

REQUEST: The request is for \$9,996,442 total funds, including \$7,369,857 General Fund, for a paid family leave benefit with funding used to pay the backfill cost for critical positions. The Department's request narrative is attached as appendix A.

RECOMMENDATION: Staff recommends that the Committee not consider or fund this item as a budget item because there is no authorizing statute for this specific benefit.

PAID FAMILY LEAVE - REQUEST AND RECOMMENDATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2020-21 Estimated Salary Base	\$2,212,821,853	\$1,238,967,816	\$512,820,214	\$271,318,266	\$189,715,557
FY 2019-20 Appropriation					
Paid Family Leave	\$0	\$0	\$0	\$0	\$0
FY 2020-21 Request					
Paid Family Leave	\$9,996,442	\$7,369,857	\$1,081,946	\$825,465	\$719,174
Paid Family Leave Percent of Salary Base	0.5%	0.6%	0.2%	0.3%	0.4%
Request Increase/(Decrease)	\$9,996,442	\$7,369,857	\$1,081,946	\$825,465	\$719,174
Percent Change	n/a	n/a	n/a	n/a	n/a
Parental Leave Increase on Salary Base	0.5%	0.6%	0.2%	0.3%	0.4%
FY 2020-21 Recommendation					
Paid Family Leave	\$0	\$0	\$0	\$0	\$0
Paid Family Leave Percent of Salary Base	0.0%	0.0%	0.0%	0.0%	0.0%
Recommendation Increase/(Decrease)	\$0	\$0	\$0	\$0	\$0
Percent Change	n/a	n/a	n/a	n/a	n/a
Recommendation difference from Request	(\$9,996,442)	(\$7,369,857)	(\$1,081,946)	(\$825,465)	(\$719,174)

LEGISLATION REQUESTS

The Governor's budget request includes a request for legislation to transfer \$15.0 million from the State Employee Reserve Fund to the General Fund for budget balancing purposes.

The Governor's budget request also includes a request for \$75.8 million General Fund to unwind the pay date shift for executive branch employees only. Although this was not specifically requested as legislation, it also was not submitted as a budget item. Staff assumes that such a budget decision should also include policy language defining such an appropriation.

DECISION ITEMS – LEGISLATION REQUESTS

➔ LEGISLATION – TRANSFER \$15.0 MILLION FROM THE SERF TO THE GF

REQUEST: The request is for legislation to transfer \$15.0 million from the State Employee Reserve Fund to the General Fund for budget balancing purposes.

RECOMMENDATION: Staff recommends no action from the Committee at this time. However, the Committee may wish to consider a transfer from the State Employee Reserve Fund to the General Fund for budget balancing purposes.

➔ **LEGISLATION – \$75.8 MILLION GENERAL FUND TO UNWIND THE PAY DATE SHIFT FOR EXECUTIVE BRANCH EMPLOYEES**

REQUEST: The request is for \$75,780,323 to unwind the pay data shift established in S.B. 03-197, for executive branch employees only.

RECOMMENDATION: Staff recommends that the Committee not fund this request and not pursue legislation for this purpose.

Alternately, if the Committee wishes to unwind the pay date shift, staff recommends unwinding the pay date shift consistently across all state agencies. If there is an interest in honoring the spirit of the Governor's request as a set-aside for a budget downturn, staff recommends setting the \$75.8 million into a budget reserve rather than partially unwinding the pay date shift as requested.

As staff addressed in the briefing issue related to this item, the Governor's request identifies that unwinding the pay date shift will make this budget "tool" available for the next downturn. A similar request was made in the FY 2014-15 budget totaling \$94 million for all state employees. However, the JBC chose not to unwind the pay date shift at that time. This mechanism has always been characterized as an accounting gimmick and the JBC determined that it likely would be used again in the next downturn. The JBC also determined that it was better to leave it in place than to whipsaw the budget and accounting processes at each downturn. The policy complexity related to the accounting on the state's books and through the budget process is such that going into and out of a pay date shift is unnecessarily fraught and complex.

Additionally, in the briefing issue, staff suggested that it was likely this request was tied to the executive branch's plan to transition to a biweekly lag-pay system. Staff suggested that this amount might be used to help that transition process. However, at the Department hearing on December 11th, Senator Moreno asked the Department how the pay date shift was related to biweekly pay. The Department representative answered that the executive branch is using vacancy savings to unwind the pay date shift incrementally; and therefore, there was not additional funding required for that purpose.

On that basis, staff recommends that the Committee not fund the request – through budget action or bill – for a partial unwinding of the pay date shift.

(2) SALARY

BASE SALARY

This common policy establishes a standard method for JBC staff to calculate the continuation personal services for each line item that includes a personal services component. The JBC has generally followed the same method for calculating the continuation personal services since FY 1995-96. This method is summarized in the table below.

Prior year Long Bill
+/- Any other prior year appropriation bills
+/- Supplemental bills recommended by the JBC in the current session
= Current year appropriation
+/- Annualizations of prior year legislation that were delineated in a fiscal note
+/- Annualizations of prior year budget decisions funded in the Long Bill
+/- The line item's share of any prior year salary increases provided in a centralized appropriation
+/- Technical adjustments, such as fund source adjustments
- Base personal services reduction, if applicable
= Continuation funding
+/- Staff recommendations on department change requests
+/- Other staff recommended adjustments
= Staff recommendation

DECISION ITEMS – BASE SALARY

→ CALCULATION OF BASE SALARY

REQUEST: The request is consistent with the JBC's traditional method of calculating base continuation personal services. Although the budget requests from the Judicial Department and elected official agencies are not overseen by the Office of State Planning and Budgeting (OSPB), these agencies calculate continuation personal services consistent with the OSPB budget instructions.

RECOMMENDATION: Staff recommends that the Committee continue the use of the established calculation of base continuation personal services, described above.

→ BASE SALARY ESTIMATE

REQUEST: The request includes annualizations for prior year legislation and budget actions and technical adjustments. The request does not include a base personal services reduction.

RECOMMENDATION: Staff recommends that the Committee approve the base salary estimate, including annualizations and technical adjustments with no base reduction.

ESTIMATED SALARY BASE (INCL. PERA AND FICA) - REQUEST AND RECOMMENDATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2019-20 Appropriation					
Base Salary	\$1,831,228,118	\$1,006,506,795	\$451,929,556	\$195,219,862	\$177,571,904
PERA	194,469,064	106,934,437	48,519,945	20,486,241	18,528,441
Medicare (FICA)	26,552,809	14,594,349	6,552,979	2,830,688	2,574,793
Subtotal - Estimated Salary Base	\$2,052,249,991	\$1,128,035,581	\$507,002,480	\$218,536,791	\$198,675,138
FY 2020-21 Request and Recommendation					
Base Salary	\$1,965,618,938	\$1,100,380,399	\$455,104,895	\$241,323,905	\$168,809,739
PERA	218,701,444	122,631,902	51,116,299	26,495,165	18,458,078
Medicare (FICA)	28,501,471	15,955,515	6,599,020	3,499,196	2,447,740
Subtotal - Estimated Salary Base	\$2,212,821,853	\$1,238,967,816	\$512,820,214	\$271,318,266	\$189,715,557
Increase/(Decrease)	\$160,571,862	\$110,932,235	\$5,817,734	\$52,781,475	(\$8,959,581)
Percent Change	7.8%	9.8%	1.1%	24.2%	(4.5%)

STATEWIDE SALARY INCREASES

Statewide salary increases are comprised of salary survey – across-the-board increases and merit pay increases.

The total compensation request for salary survey components includes the following:

1. A salary range adjustment of 2.0 percent for all occupational groups.
2. A 2.0 percent across-the-board (ATB) salary survey increase for all state employees, including State Patrol Trooper classes, including base building up to the range maximum.
3. A system maintenance request for salary structure adjustments for the Electronic Engineer, Electronics Specialist, and Customer Support Coordinator class series at a statewide cost of \$5,959.

The total compensation request includes no merit pay increase.

The Judicial Department(s) and Department of Law have submitted requests for merit pay and additional specified salary increases. Staff will address these and other individual department requests in a second compensation figure setting presentation to the Committee scheduled for March 9th. In this document, staff includes adjustments for the Judicial Departments and the Department of Law consistent with statewide recommendations.

DECISION ITEMS - SALARY SURVEY

➔ SALARY RANGE ADJUSTMENT

REQUEST: The request is for a 2.0 percent salary range adjustment for all occupational groups.

RECOMMENDATION: Staff recommends that the Committee approve the request.

The requested salary range adjustment is the recommended adjustment in the annual compensation report. As salaries in the market adjust, the salary range adjustment serves to keep classification minimums, maximums, and midpoints in line with market salaries. To the extent that these adjustments move an employee's salary below the range minimum, the associated funding has been requested within the salary survey compensation component.

→ SALARY INCREASE

REQUEST: The request is for a 2.0 percent across-the-board salary increase for all state employees, including State Trooper classes, including base building up to the range maximum.

RECOMMENDATION: Staff recommends that the Committee approve a 3.0 percent across-the-board salary increase for all state employees, including State Trooper classes, including base building up to the range maximum.

STATEWIDE SALARY INCREASES - REQUEST AND RECOMMENDATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2020-21 Estimated Salary Base	\$2,212,821,853	\$1,238,967,816	\$512,820,214	\$271,318,266	\$189,715,557
FY 2019-20 Appropriation					
Salary Survey - 3.0 percent	\$58,966,457	\$29,759,916	\$16,033,773	\$7,312,806	\$5,859,961
Merit Pay - Law and Judicial	11,641,074	10,559,751	580,610	492,399	8,314
Subtotal - Statewide Salary Increases	\$70,607,531	\$40,319,667	\$16,614,383	\$7,805,205	\$5,868,275
FY 2020-21 Request					
Salary Survey - 2.0 percent	\$41,589,232	\$22,163,035	\$10,034,278	\$5,596,534	\$3,795,385
Merit Pay - requests from Law and Jud.	5,089,106	4,397,070	388,076	301,713	2,247
Subtotal - Statewide Salary Increases	\$46,678,338	\$26,560,105	\$10,422,354	\$5,898,247	\$3,797,632
Increase/(Decrease)	(\$23,929,193)	(\$13,759,562)	(\$6,192,029)	(\$1,906,958)	(\$2,070,643)
Percent Change	(33.9%)	(34.1%)	(37.3%)	(24.4%)	(35.3%)
Statewide Salary Increase on Salary Base	2.1%	2.1%	2.0%	2.2%	2.0%
FY 2020-21 Recommendation					
Salary Survey - 3.0 percent	\$59,490,277	\$30,716,285	\$14,917,892	\$8,164,577	\$5,691,523
Merit Pay - 0.0 percent	0	0	0	0	0
Subtotal - Statewide Salary Increases	\$59,490,277	\$30,716,285	\$14,917,892	\$8,164,577	\$5,691,523
Increase/(Decrease)	(\$11,117,253)	(\$9,603,382)	(\$1,696,491)	\$359,372	(\$176,752)
Percent Change	(15.7%)	(23.8%)	(10.2%)	4.6%	(3.0%)
Statewide Salary Increase on Salary Base	2.7%	2.5%	2.9%	3.0%	3.0%
Recommendation difference from Request	\$12,811,939	\$4,156,180	\$4,495,538	\$2,266,330	\$1,893,891

ACROSS-THE-BOARD VERSUS MERIT PAY

As staff has suggested for several years, the current merit pay policy in statute is not effective, and likely should be reconsidered and replaced. In its current form, as the Department of Personnel has implemented the merit pay policy with a relatively "flat" merit pay matrix when appropriated, there is very little difference between an across-the-board increase and a merit pay increase for the 80 percent of employees who receive a mid-level rating within the merit pay performance review process.

The annual compensation report includes a prototypical merit pay matrix provided by the Department of Personnel for an average 1.0 percent merit pay increase. The 80 percent of employees with a mid-level rating would receive 1.0 percent, 0.8 percent, 0.6 percent, or 0.4 percent for employees in quartiles 1 through 4, respectively. The 20 percent of employees with the highest-level rating would receive 2.0 percent, 1.8 percent, 1.6 percent, and 1.4 percent across the quartiles; additionally, employees receiving the highest-level rating who are above the maximum of their salary range would also receive an increase (non-base-building bonus) of 1.2 percent in this matrix.

While such a matrix has the effect of providing greater increases for the highest performers, the policy has almost no effect in moving most of the 70 percent of all employees in the first and second quartiles to midpoint or employees up the salary range generally to recognize competence and experience.

Although a 3.0 percent merit pay request was initially submitted for FY 2019-20, it was replaced with a 3.0 percent across-the-board request following the administration transition. Prior to that, merit pay was last requested for FY 2015-16 at 1.0 percent. It has been appropriated four times, including 1.5 percent for FY 2013-14, 1.0 percent for FY 2014-15 and FY 2015-16, and, although not requested, appropriated at 0.75 percent for FY 2017-18 along with a 2.0 percent across-the-board increase.

Its lack of use by the executive branch over two administrations suggests that it has been experienced and seen as ineffective within the executive branch. Its lack of use ensures that the State's compensation system operates without a performance-based pay system. Symptoms of the ineffectiveness of the current statewide compensation system, particularly seen in individual department requests by the Departments of Corrections and Human Services for budget increases for whole occupational classes of employees, suggest that state employees generally are not able to reasonably or systematically move up the salary range through annual statewide compensation policies.

At this time, the Committee and the General Assembly lack any statewide policy tool or budget mechanism to consistently and effectively move first and second quartile employees to midpoint and employees up the salary range generally for the purpose of securing a state employee workforce motivated and rewarded for competency, experience, and performance.

At this time, an across-the-board salary increase is the only statewide budget mechanism to ensure prevailing compensation and maintain parity with the market.

3.0 PERCENT RECOMMENDATION VERSUS 2.0 PERCENT REQUEST

The annual compensation report recommends 3.0 percent and includes the following statements:

According to WorldatWork the salary budget increase projection for FY 2020-21 in the market is 3% (median). This market trend is consistent with the data collected from custom participant organizations.

According to the WorldatWork FY 2019-20 Salary Budget Survey organizations estimated an averaged 3% merit increases for mid-level performers and 4% for top performers in 2019.

According to the WorldatWork FY 2019-20 Salary Budget Survey the projected merit increase percentage for FY 2020-21 is 3% (median), while COLA is projected at 2.5% (median). The custom survey participant organizations reported a 3% (median) projected increase for Merit and a 3% (median) general across-the-board increase (not cost of living).

The State should consider providing merit, COLA, or other salary adjustments of 3% in accordance with compensation philosophy and strategy.

Senate Bill 18-200, PERA Unfunded Liability, includes a 0.75 percent increase in employee contributions for FY 2020-21. Additionally, the automatic adjustment provisions included in the bill, and, effected for FY 2020-21, further increases the employee contribution by 0.5 percent. State employees will be paying an additional 1.25 percent to PERA beginning in FY 2020-21.

As staff has consistently stated over several years, the normal cost for PERA for current employees is approximately 10 to 12 percent. With an increase of 1.25 percent to a rate of 10.0 percent, at a normal cost of 10 percent, employees will be fully funding their own PERA benefits through their employee contributions. Or, another way of saying that – the employer contribution from the State does not help to pay for current employee PERA benefits. The employer contribution as well as the AED, SAED, and PERA Direct Distribution are almost completely routed to pay for the unfunded liability – a State responsibility. The annual compensation report includes the following:

The State's retirement plan is approximately 20.6% lower than the prevailing market retirement plans as a percent of annual salary. ... It is determined that the State's retirement benefit to employees is approximately 11.2% of annual salary. The market average is valued at 14.1% of base salary, while the median is 12.9% of base salary.

The passage of SB-200 in 2018 lowered the value of the retirement plan as a percent of annual salary due to increased employee contributions to PERA, lowering the COLA cap, and updating the FAS calculation.

This suggests that next year's annual compensation report will show further erosion of the State contribution for retirement, both absolutely and relative to the market. Prior to S.B. 18-200, the FY 2018-19 annual compensation report, issued in 2017, estimated that the State provided 15.5 percent of salary, a 9.9 percent premium over the market median of 12.9 percent. Until that point, retirement benefits were the one salary and benefit component that was consistently identified as higher than market. As a point of employee recruitment and retention, it was the one compensation component that might attract a more long-term and committed workforce despite its being packaged with more modest salary expectations. That point of advantage has been eliminated in exchange for reducing the State's share to pay for PERA's unfunded liability.

Staff highly recommends, out of an interest in affirming a sense of inter-generational equity across state employee PERA members, that the Committee first make whole employees for the 1.25 percent increase in employee contributions for PERA. On that basis, the Governor's requested 2.0 percent across-the-board increase results in a 0.75 percent net salary increase. Staff's recommended 3.0 percent across-the-board increase results in a 1.75 percent net salary increase experienced by state employees.

Further, a 3.0 percent increase is consistent with salary increases in the market generally over the last several years. The State has provided 3.0 percent total increases since FY 2018-19, consistent with the annual compensation report and generally accepted adjustments in the market. Since the salary freeze years following the 2008 downturn, from FY 2009-10 through FY 2012-13, over the last seven years the State has provided the following increases:

- FY 2019-20 – 3.0 percent across-the-board; no merit pay;
- FY 2018-19 – 3.0 percent across-the-board; no merit pay;
- FY 2017-18 – 2.0 percent across-the-board; 0.75 percent merit pay;
- FY 2016-17 – no across-the-board; no merit pay;
- FY 2015-16 – 1.0 percent across-the-board; 1.0 percent merit pay;
- FY 2014-15 – 2.5 percent across-the-board; 1.0 percent merit pay; and
- FY 2013-14 – 2.0 percent across-the-board; 1.5 percent merit pay.

As a general rule, in order to comply with the statutory policy of prevailing compensation and maintain parity with the market, statewide compensation should move with the market. While the current business cycle may be exceptionally mature and past due for a downturn relative to historical trends, the general consensus suggests that a downturn is not anticipated over the next year. If there were indications of either economic weakness in the job market or other signs that would cause the State to have a more difficult time meeting its budget obligations in FY 2020-21, it might be reasonable to scale back, incrementally, on current market trends related to salary increases. However, given the generally solid growth in state revenue and increase requests for new policy items, in staff's opinion, the decision to provide a 2.0 percent increase, instead of the consensus-indicated 3.0 percent, appears to be related to general budget balancing and policy priority decisions which rank funding for new policies ahead of funding for existing state commitments.

The 2015 annual compensation report, for FY 2016-17, identified a projected salary increase of 3.0 percent in the market. The Governor's request was for no increase. The staff briefing document addressed this issue as follows:

*Staff may recommend at figure setting, that the Committee consider funding a weighted average 1.0 to 1.5 percent merit pay increase. Related to this possible recommendation, staff also recommends that, as the Committee enters figure setting for the FY 2016-17 budget, the Committee consider making, to the extent possible, budget-neutral program staffing decisions (1) in the FY 2016-17 Long Bill, (2) in bills with FY 2016-17 appropriations, and (3) in bills with future-year annualizing increases in appropriations. **Staff recommends this approach rather than the alternative of delaying compensation increases while funding a net increase in program staffing growth across state agencies through the Long Bill and other bills.***

At figure setting, staff recommended a 1.5 percent average increase using Merit Pay. Staff's figure setting write-up included the following:

Staff recommends a merit pay adjustment at half of the recommended percentage in order to split the difference between the Total Compensation Report recommendation and the Governor's request. This will enable the State to more readily adjust to probable future increases. The State cannot indefinitely delay providing increases for state employee compensation during a time of economic growth and labor

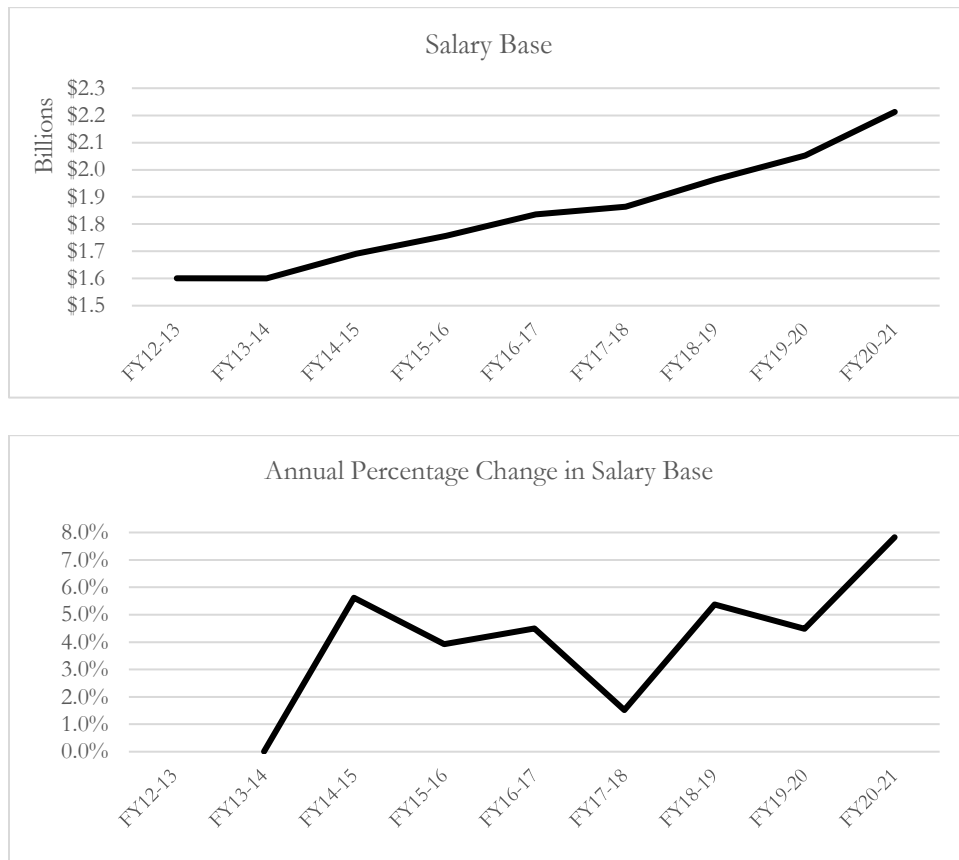
market and wage improvement and remain in compliance with statute to maintain prevailing compensation.

The 2016 annual compensation report, for FY 2017-18, identified base salary as 6 percent below market. The year earlier report for FY 2016-17 had identified base salary as 3 percent below market. Essentially, base salary adjusted by 3 percent in the market, and the State fell behind by that amount in not making the recommended adjustment. As a reminder, the FY 2020-21 report identifies that base salary is currently 4.8 percent below market median.

A REMINDER ABOUT SALARY BASE

The following salary base history table and charts were include in the staff briefing document in factors driving the budget.

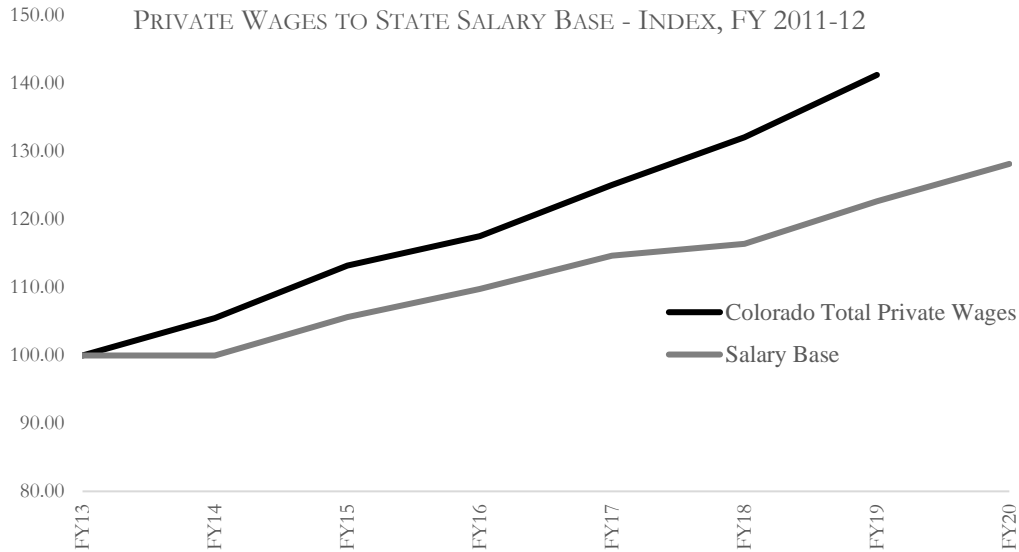
STATEWIDE SALARY BASE 9-YEAR ESTIMATED APPROPRIATIONS (IN MILLIONS)									
	FY12-13	FY13-14	FY14-15	FY15-16	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21
Salary Base	\$1,600.8	\$1,600.9	\$1,690.9	\$1,757.2	\$1,836.3	\$1,864.1	\$1,964.2	\$2,052.2	\$2,212.8
Change		0.1	90.0	66.3	79.1	27.8	100.1	88.0	160.6
Percentage Change		0.0%	5.6%	3.9%	4.5%	1.5%	5.4%	4.5%	7.8%
9-year Statewide Salary Base compound average annual growth rate									3.7%



Annual changes in the salary base reflect increases provided in the prior fiscal year. The 0.0 percent change in the salary base in FY 2013-14 reflects no increases provided in FY 2012-13. Additionally,

changes in the salary base also reflect increases in FTE for program creation and expansion. The 1.5 percent increase in FY 2017-18 reflects no salary increases funded in FY 2016-17; salary base growth occurred from staff increases included in budget decisions and legislation.

The following chart compares the salary base to private wage growth in the State since FY 2011-12.



This chart is not a comparison of salary increases. It is a comparison of the growth in private wages in the State compared to the growth in the salary base. While a salary increase may keep compensation competitive with the market by occupational classification, consistent with the experience of revenue limits under TABOR, the growth in the salary base lags the State's economic growth generally.

This discussion of salary base is not included as an illustration of the competitiveness of statewide salary increases relative to the market. Staff includes these illustrations to remind the Committee that budget choices related to the salary base include predominantly two components:

- Statewide salary increases to fairly and competitively pay current state employees for the provision of already approved state services. This is an existing commitment.
- And salary base increases related to adding new FTEs for program creation and expansion. These choices are for new, additional commitments.

Staff recommends that the Committee first attend to providing for current state responsibilities for existing programs and staff. Staff recommends maintaining the currently identified 4.8 percent base salary deficiency relative to the market with the recommended 3.0 percent increase, particularly in a year in which state budget revenue is available and adequate to provide an equivalent response to growth expectations in the market.

As reflected in the table above, the staff recommendation is only incrementally higher – \$0.9 million General Fund – than last year's salary survey total; and the General Fund commitment is \$9.6 million, or 23.8 percent less than last year's total appropriations for all salary increases. The recommendation totals \$4.2 million more General Fund than all requests for salary increases for FY 2020-21.

The following table outlines all components affected by the recommendation:

ALL COMPONENTS TIED TO STATEWIDE SALARY INCREASES - REQUEST AND RECOMMENDATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2020-21 Estimated Salary Base	\$2,212,821,853	\$1,238,967,816	\$512,820,214	\$271,318,266	\$189,715,557
FY 2019-20 Appropriation					
Salary Survey - 3.0 percent	\$58,966,457	\$29,759,916	\$16,033,773	\$7,312,806	\$5,859,961
Merit Pay - Law and Judicial	11,641,074	10,559,751	580,610	492,399	8,314
Short-term Disability	3,147,472	1,734,352	748,012	377,387	287,721
AED	96,798,550	53,950,650	22,983,454	11,272,443	8,592,003
SAED	96,620,642	53,773,958	22,983,382	11,271,629	8,591,673
Subtotal - Statewide Salary Increases	\$267,174,195	\$149,778,627	\$63,329,231	\$30,726,664	\$23,339,672
FY 2020-21 Request					
Salary Survey - 2.0 percent	\$41,589,232	\$22,163,035	\$10,034,278	\$5,596,534	\$3,795,385
Merit Pay - Law and Judicial	5,089,106	4,397,070	388,076	301,713	2,247
Short-term Disability	3,250,006	1,782,981	761,953	416,472	288,600
AED	100,495,338	56,179,080	23,235,605	12,426,627	8,654,026
SAED	100,495,338	56,179,080	23,235,605	12,426,627	8,654,026
Subtotal - Statewide Salary Increases	\$250,919,020	\$140,701,246	\$57,655,517	\$31,167,973	\$21,394,284
Increase/(Decrease)	(\$16,255,175)	(\$9,077,381)	(\$5,673,714)	\$441,309	(\$1,945,388)
Percent Change	(6.1%)	(6.1%)	(9.0%)	1.4%	(8.3%)
FY 2020-21 Recommendation					
Salary Survey - 3.0 percent	\$59,490,277	\$30,716,285	\$14,917,892	\$8,164,577	\$5,691,523
Merit Pay	0	0	0	0	0
Short-term Disability	3,275,929	1,795,612	769,020	419,871	291,426
AED	101,271,762	56,554,909	23,451,162	12,527,404	8,738,287
SAED	101,271,762	56,554,909	23,451,162	12,527,404	8,738,287
Subtotal - Statewide Salary Increases	\$265,309,730	\$145,621,715	\$62,589,236	\$33,639,256	\$23,459,523
Increase/(Decrease)	(\$1,864,464)	(\$4,156,912)	(\$739,995)	\$2,912,592	\$119,851
Percent Change	(0.7%)	(2.8%)	(1.2%)	9.5%	0.5%
Recommendation difference from Request	\$14,390,710	\$4,920,469	\$4,933,719	\$2,471,283	\$2,065,239

As illustrated in the table, the additional commitment for staff's recommended 3.0 percent salary increase is \$4.9 million General Fund relative to requested increases. Staff's recommended 3.0 percent salary increase is \$4.2 million General Fund less than salary increases appropriated in FY 2019-20.

Based on the relatively small incremental increase in additional General Fund, given the ongoing pressures of maintaining parity with the market in periods of economic growth, and better addressing the increased employee contribution to PERA, staff recommends that the Committee approve a 3.0 percent salary increase for FY 2020-21.

OTHER STATEWIDE SALARY COMPONENTS

DECISION ITEMS – SHIFT DIFFERENTIAL

→ SHIFT DIFFERENTIAL

Shift differential is premium pay for employees who work weekends and holidays or hours outside the normal day-time hours. Departments only pay shift differential when it is the prevailing market practice for a job classification. The majority of shift differential payments occur in the Department of Corrections and the Department of Human Services, mostly for employees providing direct supervision or care in institutional settings.

REQUEST: The FY 2020-21 request is at 100 percent of prior year actual expenditures (FY 2018-19). The request is for \$18.1 million total funds, including \$14.2 million General Fund. The request is an increase of \$47,000 total funds, including an increase of \$53,000 General Fund, and represents a 0.3 percent increase in total funds and a 0.4 percent increase in General Fund from the prior year appropriation.

RECOMMENDATION: Staff recommends that the Committee approve the FY 2020-21 request at 100 percent of prior year actual expenditures and appropriations as outlined in the following table.

SHIFT DIFFERENTIAL - REQUEST AND RECOMMENDATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2019-20 Appropriation					
Shift Differential	\$18,059,304	\$14,125,081	\$594,743	\$3,285,532	\$53,948
FY 2020-21 Request and Recommendation					
Shift Differential	\$18,106,359	\$14,177,714	\$721,901	\$2,204,984	\$1,001,760
Shift Diff. Approp. Percent of Salary Base	0.8%	1.1%	0.1%	0.8%	0.5%
Increase/(Decrease)	\$47,055	\$52,633	\$127,158	(\$1,080,548)	\$947,812
Percent Change	0.3%	0.4%	21.4%	(32.9%)	1,756.9%

(3) BENEFITS

The benefits components include Health, Life, and Dental, Short-term Disability, and the newly requested Paid Family Leave line items.

Health, life, and dental pays for the state contribution to health insurance, life insurance, and dental insurance. The state contribution for health insurance and dental insurance has four tiers based on employee, employee + spouse, employee + children, and family. There are no tiers for the state contribution to life insurance. Employees may choose from four different health benefit packages and two different dental benefit packages. The health plans range from high deductible plans to co-pay plans from United Health Care and Kaiser.

The following table outlines the proposed FY 2020-21 monthly state contributions for Health, Life, and Dental components as included in the November 1st budget request.

FY 2020-21 HEALTH, LIFE, AND DENTAL MONTHLY STATE CONTRIBUTION BY PLAN AND TIER						
TIER	HEALTH	DENTAL	LIFE	FY20-21 REQUEST	FY19-20 RATE	PERCENT CHANGE
United Health Care - High Deductible						
Tier 1 - Employee	\$623.44	\$28.72	\$7.66	\$659.82	\$630.66	4.6%
Tier 2 - Employee + Spouse	1,158.74	47.22	7.66	1,213.62	1,158.44	4.8%
Tier 3 - Employee + Children	1,147.52	51.46	7.66	1,206.64	1,151.86	4.8%
Tier 4 - Family	1,627.68	68.95	7.66	1,704.29	1,626.14	4.8%
United Health Care - Co-pay						
Tier 1 - Employee	\$628.32	\$28.72	\$7.66	\$664.70	\$635.30	4.6%
Tier 2 - Employee + Spouse	1,169.00	47.22	7.66	1,223.88	1,168.20	4.8%
Tier 3 - Employee + Children	1,156.78	51.46	7.66	1,215.90	1,160.68	4.8%
Tier 4 - Family	1,642.32	68.95	7.66	1,718.93	1,640.08	4.8%
Kaiser - High Deductible						
Tier 1 - Employee	\$537.68	\$28.72	\$7.66	\$574.06	\$548.98	4.6%
Tier 2 - Employee + Spouse	994.70	47.22	7.66	1,049.58	1,002.20	4.7%
Tier 3 - Employee + Children	985.48	51.46	7.66	1,044.60	997.54	4.7%
Tier 4 - Family	1,395.32	68.95	7.66	1,471.93	1,404.84	4.8%
Kaiser - Co-pay						
Tier 1 - Employee	\$606.68	\$28.72	\$7.66	\$643.06	\$614.70	4.6%
Tier 2 - Employee + Spouse	1,137.48	47.22	7.66	1,192.36	1,138.18	4.8%
Tier 3 - Employee + Children	1,114.70	51.46	7.66	1,173.82	1,120.60	4.7%
Tier 4 - Family	1,598.56	68.95	7.66	1,675.17	1,598.40	4.8%

For FY 2020-21, the request adjusts health premiums for employers, which vary by tier and by plan. The changes maintain an average 80-20 employer to employee cost share. The following tables outline the proposed employer and employee monthly premiums for Health Insurance.

1. HEALTH INSURANCE - FY 2020-21 PROPOSED EMPLOYER MONTHLY PREMIUM				
PLAN	FY19-20 RATE	FY20-21 REQUEST	CHANGE	PERCENT CHANGE
United Health Care - High Deductible				
Tier 1 - Employee	\$593.76	\$623.44	\$29.68	5.0%
Tier 2 - Employee + Spouse	1,103.58	1,158.74	55.16	5.0%
Tier 3 - Employee + Children	1,092.88	1,147.52	54.64	5.0%
Tier 4 - Family	1,550.18	1,627.68	77.50	5.0%
United Health Care - Co-pay				
Tier 1 - Employee	\$598.40	\$628.32	\$29.92	5.0%
Tier 2 - Employee + Spouse	1,113.34	1,169.00	55.66	5.0%
Tier 3 - Employee + Children	1,101.70	1,156.78	55.08	5.0%
Tier 4 - Family	1,564.12	1,642.32	78.20	5.0%
Kaiser - High Deductible				
Tier 1 - Employee	\$512.08	\$537.68	\$25.60	5.0%
Tier 2 - Employee + Spouse	947.34	994.70	47.36	5.0%
Tier 3 - Employee + Children	938.56	985.48	46.92	5.0%
Tier 4 - Family	1,328.88	1,395.32	66.44	5.0%
Kaiser - Co-pay				
Tier 1 - Employee	\$577.80	\$606.68	\$28.88	5.0%
Tier 2 - Employee + Spouse	1,083.32	1,137.48	54.16	5.0%
Tier 3 - Employee + Children	1,061.62	1,114.70	53.08	5.0%
Tier 4 - Family	1,522.44	1,598.56	76.12	5.0%

2. HEALTH INSURANCE - FY 2020-21 PROPOSED EMPLOYEE MONTHLY PREMIUM

PLAN	FY19-20 RATE	FY20-21 REQUEST	CHANGE	PERCENT CHANGE
United Health Care - High Deductible				
Tier 1 - Employee	\$25.18	\$25.18	\$0.00	0.0%
Tier 2 - Employee + Spouse	156.26	156.26	0.00	0.0%
Tier 3 - Employee + Children	55.80	55.80	0.00	0.0%
Tier 4 - Family	237.02	237.02	0.00	0.0%
United Health Care - Co-pay				
Tier 1 - Employee	\$159.14	\$159.14	\$0.00	0.0%
Tier 2 - Employee + Spouse	437.52	437.52	0.00	0.0%
Tier 3 - Employee + Children	310.30	310.30	0.00	0.0%
Tier 4 - Family	638.86	638.86	0.00	0.0%
Kaiser - High Deductible				
Tier 1 - Employee	\$36.78	\$36.78	\$0.00	0.0%
Tier 2 - Employee + Spouse	178.00	178.00	0.00	0.0%
Tier 3 - Employee + Children	82.36	82.36	0.00	0.0%
Tier 4 - Family	268.46	268.46	0.00	0.0%
Kaiser - Co-pay				
Tier 1 - Employee	\$93.72	\$93.72	\$0.00	0.0%
Tier 2 - Employee + Spouse	298.02	298.02	0.00	0.0%
Tier 3 - Employee + Children	190.34	190.34	0.00	0.0%
Tier 4 - Family	440.48	440.48	0.00	0.0%

3. HEALTH INSURANCE - FY 2020-21 PROPOSED TOTAL MONTHLY PREMIUM

PLAN	FY19-20 RATE	FY20-21 REQUEST	CHANGE	PERCENT CHANGE
United Health Care - High Deductible				
Tier 1 - Employee	\$618.94	\$648.62	\$29.68	4.8%
Tier 2 - Employee + Spouse	1,259.84	1,315.00	55.16	4.4%
Tier 3 - Employee + Children	1,148.68	1,203.32	54.64	4.8%
Tier 4 - Family	1,787.20	1,864.70	77.50	4.3%
United Health Care - Co-pay				
Tier 1 - Employee	\$757.54	\$787.46	\$29.92	3.9%
Tier 2 - Employee + Spouse	1,550.86	1,606.52	55.66	3.6%
Tier 3 - Employee + Children	1,412.00	1,467.08	55.08	3.9%
Tier 4 - Family	2,202.98	2,281.18	78.20	3.5%
Kaiser - High Deductible				
Tier 1 - Employee	\$548.86	\$574.46	\$25.60	4.7%
Tier 2 - Employee + Spouse	1,125.34	1,172.70	47.36	4.2%
Tier 3 - Employee + Children	1,020.92	1,067.84	46.92	4.6%
Tier 4 - Family	1,597.34	1,663.78	66.44	4.2%
Kaiser - Co-pay				
Tier 1 - Employee	\$671.52	\$700.40	\$28.88	4.3%
Tier 2 - Employee + Spouse	1,381.34	1,435.50	54.16	3.9%
Tier 3 - Employee + Children	1,251.96	1,305.04	53.08	4.2%
Tier 4 - Family	1,962.92	2,039.04	76.12	3.9%

**4. HEALTH INSURANCE - FY 2020-21 PROPOSED TOTAL MONTHLY PREMIUM –
STATE AND EMPLOYEE SHARE**

PLAN	STATE PREMIUM	EMPLOYEE PREMIUM	STATE SHARE	EMPLOYEE SHARE
United Health Care - High Deductible				
Tier 1 - Employee	\$623.44	\$25.18	96.1%	3.9%
Tier 2 - Employee + Spouse	1,158.74	156.26	88.1%	11.9%
Tier 3 - Employee + Children	1,147.52	55.80	95.4%	4.6%
Tier 4 - Family	1,627.68	237.02	87.3%	12.7%
United Health Care - Co-pay				

4. HEALTH INSURANCE - FY 2020-21 PROPOSED TOTAL MONTHLY PREMIUM – STATE AND EMPLOYEE SHARE				
PLAN	STATE PREMIUM	EMPLOYEE PREMIUM	STATE SHARE	EMPLOYEE SHARE
Tier 1 - Employee	\$628.32	\$159.14	79.8%	20.2%
Tier 2 - Employee + Spouse	1,169.00	437.52	72.8%	27.2%
Tier 3 - Employee + Children	1,156.78	310.30	78.8%	21.2%
Tier 4 - Family	1,642.32	638.86	72.0%	28.0%
Kaiser - High Deductible				
Tier 1 - Employee	\$537.68	\$36.78	93.6%	6.4%
Tier 2 - Employee + Spouse	994.70	178.00	84.8%	15.2%
Tier 3 - Employee + Children	985.48	82.36	92.3%	7.7%
Tier 4 - Family	1,395.32	268.46	83.9%	16.1%
Kaiser - Co-pay				
Tier 1 - Employee	\$606.68	\$93.72	86.6%	13.4%
Tier 2 - Employee + Spouse	1,137.48	298.02	79.2%	20.8%
Tier 3 - Employee + Children	1,114.70	190.34	85.4%	14.6%
Tier 4 - Family	1,598.56	440.48	78.4%	21.6%

For FY 2020-21, the request adjusts dental premiums for both employers and employees, which vary by tier and by plan. The following tables outline the proposed employer and employee monthly premiums for Dental Insurance.

1. DENTAL INSURANCE - FY 2020-21 PROPOSED EMPLOYER MONTHLY PREMIUM				
PLAN	FY19-20 RATE	FY20-21 REQUEST	CHANGE	PERCENT CHANGE
Dental Basic				
Tier 1 - Employee	\$27.88	\$28.72	\$0.84	3.0%
Tier 2 - Employee + Spouse	45.84	47.22	1.38	3.0%
Tier 3 - Employee + Children	49.96	51.46	1.50	3.0%
Tier 4 - Family	66.94	68.95	2.01	3.0%
Dental Basic Plus				
Tier 1 - Employee	\$27.88	\$28.72	\$0.84	3.0%
Tier 2 - Employee + Spouse	45.84	47.22	1.38	3.0%
Tier 3 - Employee + Children	49.96	51.46	1.50	3.0%
Tier 4 - Family	66.94	68.95	2.01	3.0%

2. DENTAL INSURANCE - FY 2020-21 PROPOSED EMPLOYEE MONTHLY PREMIUM				
PLAN	FY19-20 RATE	FY20-21 REQUEST	CHANGE	PERCENT CHANGE
Dental Basic				
Tier 1 - Employee	\$4.62	\$4.62	\$0.00	0.0%
Tier 2 - Employee + Spouse	16.98	16.98	0.00	0.0%
Tier 3 - Employee + Children	15.90	15.90	0.00	0.0%
Tier 4 - Family	29.22	29.22	0.00	0.0%
Dental Basic Plus				
Tier 1 - Employee	\$19.78	\$19.78	\$0.00	0.0%
Tier 2 - Employee + Spouse	47.28	47.28	0.00	0.0%
Tier 3 - Employee + Children	47.70	47.70	0.00	0.0%
Tier 4 - Family	76.18	76.18	0.00	0.0%

Life insurance provides a benefit of one times the employee's annual salary, up to a maximum of \$150,000. The premiums decrease to \$7.66 per covered life per month.

LIFE INSURANCE - FY 2020-21 PROPOSED EMPLOYER MONTHLY PREMIUM				
PLAN	FY19-20 RATE	FY20-21 REQUEST	CHANGE	PERCENT CHANGE
Life Insurance	\$8.98	\$7.66	(\$1.32)	(14.7%)

DECISION ITEMS – BENEFITS

→ HEALTH, LIFE, AND DENTAL

REQUEST: The health insurance portion of the FY 2019-20 request is for an average 80 percent employer-paid premium with premium adjustments outlined in the health, life, and dental premiums tables above. The FY 2020-21 appropriation request for Health, Life, and Dental is for \$309.8 million total funds including \$178.4 million General Fund.

RECOMMENDATION: Staff recommends that the Committee approve the Health, Life, and Dental appropriation request and appropriations as outlined in the following table.

HEALTH, LIFE, AND DENTAL - REQUEST AND RECOMMENDATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2020-21 Estimated Salary Base	\$2,212,821,853	\$1,238,967,816	\$512,820,214	\$271,318,266	\$189,715,557
FY 2019-20 Appropriation					
Health, Life, and Dental	\$287,247,601	\$168,977,137	\$63,372,916	\$31,744,675	\$23,152,873
FY 2020-21 Request and Recommendation					
Health, Life, and Dental	\$309,794,012	\$178,372,572	\$70,221,943	\$35,911,351	\$25,288,146
HLD Approp. Percent of Salary Base	14.0%	14.4%	13.7%	13.2%	13.3%
Increase/(Decrease)	\$22,546,411	\$9,395,435	\$6,849,027	\$4,166,676	\$2,135,273
Percent Change	7.8%	5.6%	10.8%	13.1%	9.2%
HLD Increase on Salary Base	1.0%	0.8%	1.3%	1.5%	1.1%

→ SHORT TERM DISABILITY

Short Term Disability is used to provide partial payment of an employee's salary in the event that the employee becomes disabled and cannot perform the employee's work duties. This benefit is provided for all employees except temporary employees.

The FY 2020-21 request is for short-term disability funding at a continuation rate of 0.17 percent of revised base salaries. The request is for \$3.3 million total funds, including \$1.8 million General Fund. The request is an increase of \$103,000 total funds, including an increase of \$49,000 General Fund, and represents a 3.3 percent increase in total funds and a 2.8 percent increase in General Fund from the prior year appropriation.

REQUEST: The FY 2019-20 request is for short-term disability funding at a rate of 0.17 percent of revised base salaries. The request totals \$3.3 million, including \$1.8 million General Fund, as outlined in the following table.

RECOMMENDATION: Staff recommends that the Committee approve short-term disability funding at a rate of 0.17 percent of revised base salaries and appropriations as estimated in the following table. Staff's recommended appropriations total \$3.3 million, including \$1.8 million General Fund. The recommendation is greater than the request by \$26,000 total funds and \$13,000 General Fund as a result of staff's recommendation for a 3.0 percent salary survey increase.

SHORT TERM DISABILITY - REQUEST AND RECOMMENDATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2020-21 Estimated Salary Base	\$2,212,821,853	\$1,238,967,816	\$512,820,214	\$271,318,266	\$189,715,557
FY 2019-20 Appropriation					
Short-term Disability	\$3,147,472	\$1,734,352	\$748,012	\$377,387	\$287,721
FY 2020-21 Request					
Short-term Disability	\$3,250,006	\$1,782,981	\$761,953	\$416,472	\$288,600
STD Approp. Percent of Salary Base	0.1%	0.1%	0.1%	0.2%	0.2%
Increase/(Decrease)	\$102,534	\$48,629	\$13,941	\$39,085	\$879
Percent Change	3.3%	2.8%	1.9%	10.4%	0.3%
FY 2020-21 Recommendation					
Short-term Disability	\$3,275,929	\$1,795,612	\$769,020	\$419,871	\$291,426
STD Approp. Percent of Salary Base	0.1%	0.1%	0.1%	0.2%	0.2%
Increase/(Decrease)	\$128,457	\$61,260	\$21,008	\$42,484	\$3,705
Percent Change	4.1%	3.5%	2.8%	11.3%	1.3%
Recommendation difference from Request	\$25,923	\$12,631	\$7,067	\$3,399	\$2,826

(4) OTHER NON-SALARY/NON-BENEFIT COMPONENTS

Other non-salary/non-benefit components include budget items which are tied or associated with compensation, salary, or payroll, but that are not employee compensation or benefits.

Amortization Equalization Disbursement (AED) and Supplemental Amortization Equalization Disbursement (SAED) are calculated on revised base salary, which includes base salary, salary survey, merit pay, and shift differential. They are commonly considered to be part of the total compensation package because payment amounts are calculated on total salary. However, these payments are amortization payments for PERA's unfunded liabilities and do not represent current employee compensation. Nevertheless, as created in statute and by federal pension fund rules, SAED contributions are structured as employee compensation and represent salary increases foregone by employees; essentially SAED reflects an amount that would otherwise be reflected and located in base salary.

DECISION ITEMS – PERA AMORTIZATION PAYMENTS

→ AMORTIZATION EQUALIZATION DISBURSEMENT (AED)

Pursuant to Section 24-51-411, C.R.S., the State contributes additional funds to assist in the amortization of PERA's unfunded liability. During the 2005 legislative session the General Assembly created a separate line item to provide funding for this commitment. By statute, the AED rate increased 0.4 percent each calendar year until it reached the maximum contribution rate of 5.0 percent for CY 2017, except for judges where the state contribution remained constant at 2.2 percent. However, H.B. 17-1265 (*PERA Judicial Division Total Employer Contribution*) enacted increases to 3.4, 3.8, 4.2, 4.6, and 5.0 percent in each succeeding year beginning in calendar year 2019.

REQUEST: The FY 2020-21 request is based on the statutory rate of 5.0 percent for state employees and an average 4.0 percent (3.8 percent for CY 2020 and 4.2 percent for CY 2021) for judges applied to the revised base salary. The request is for \$100.5 million total funds, including \$56.2 million General Fund.

RECOMMENDATION: Staff recommends that the Committee approve amounts calculated using the statutory rate and appropriations estimated in the consolidated line item table below. The recommendation totals \$101.3 million, including \$56.6 million General Fund. The recommendation is greater than the request by \$776,000 total funds and \$376,000 General Fund as a result of staff's recommendation for a 3.0 percent salary survey increase.

→ SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)

Similar to the AED line item, the Supplemental Amortization Equalization Disbursement (SAED) line item increases contributions to PERA to amortize the unfunded liability. By statute, the SAED rate increased 0.5 percent each calendar year until it reached the maximum contribution rate of 5.0 percent for CY 2017, except for judges where the state contribution remained constant at 1.5 percent. However, as with AED, H.B. 17-1265 (*PERA Judicial Division Total Employer Contribution*) enacted increases to 3.4, 3.8, 4.2, 4.6, and 5.0 percent in each succeeding year beginning in calendar year 2019.

Although the SAED payment is made by the State, statute specifies that funding is to come from money that would have otherwise gone to state employees as part of salary increases, pursuant to Section 24-51-411 (10), C.R.S., and if paid as salary increases would appear in the salary base.

REQUEST: The FY 2020-21 request is based on the statutory rate of 5.0 percent for state employees and an average 4.0 percent (3.8 percent for CY 2020 and 4.2 percent for CY 2021) for judges applied to the revised base salary. The request is for \$100.5 million total funds, including \$56.2 million General Fund.

RECOMMENDATION: Staff recommends that the Committee approve amounts calculated using the statutory rate and appropriations estimated in the consolidated line item table below. The recommendation totals \$101.3 million, including \$56.6 million General Fund. The recommendation is greater than the request by \$776,000 total funds and \$376,000 General Fund as a result of staff's recommendation for a 3.0 percent salary survey increase.

→ PERA DIRECT DISTRIBUTION

In FY 2019-20, a common policy allocation to state agencies was added for the State's \$225.0 million statutory PERA Direct Distribution payment. This allocation was added to common policies to charge cash and federal funds sources for what would otherwise be a General Fund payment. The allocation is not created in statute as a calculation on payroll but instead has been structured exclusively as a non-statutory budget process construct. The methodology agreed upon in FY 2019-20 is that the allocation to fund sources by state agency should match the proportions determined for the AED and SAED appropriations.

The executive branch has submitted this common policy as an operating common policy. However, JBC staff will continue to reflect this item as a compensation common policy for PERA amortization payments for the unfunded liability, primarily due to its connection to AED and SAED policy. Operating common policies are services provided to state agencies by a centralized service provider. There is no service provided for the PERA Direct Distribution common policy payment. This is simply a payment to PERA that reduces the State's General Fund obligation that is more similar to the existing AED and SAED amortization payment policies.

The PERA Direct Distribution totals \$54.1 million in FY 2020-21. This reflects a decrease of \$2.4 million from FY 2019-20. The total PERA Direct Distribution is allocated to the public schools divisions and the state employee divisions of PERA based on total payroll. This decrease indicates that total payroll for public schools increased relative to total payroll for state employees.

REQUEST: The FY 2020-21 is for \$54.1 million total funds, including \$27.2 million General Fund, \$16.5 million cash funds, \$5.7 million reappropriated funds, and \$4.7 million federal funds.

RECOMMENDATION: Staff recommends an appropriation of \$54.1 million total funds, including \$31.8 million General Fund, \$16.2 million cash funds, \$6.1 million reappropriated funds, and no federal funds. The recommendation differs from the request as follows: greater by \$4.6 million General Fund, lesser by \$335,000 cash funds, greater by \$444,000 reappropriated funds, and lesser by \$4.7 million General Fund.

The recommendation for distribution by all fund sources across all departments is incrementally different than the request. Staff's recommendation follows the methodology of allocating appropriations consistent with AED and SAED appropriations by fund source.

Additionally, staff recommends backfilling federal funds with General Fund in the appropriation, with the expectation that the State Controller's Office will include the federal portion for collection through the indirect cost process. It is now an established fact that not all federal fund sources will pay for the PERA Direct Distribution through a direct payment. It is anticipated that all federal fund payments may be collected through the indirect cost process.

Staff remains concerned that additional – and possibly all – federal fund sources will discontinue allowing a direct payment for this item. Each budget year that the PERA Direct Distribution is allocated to federal funds, further compounds the financial risk to the State for the amount of General Fund that may have to be paid for this purpose. The FY 2019-20 supplemental provides \$2.3 million General Fund for backfill of uncollected federal fund payments. This leaves \$2.3 million that may additionally need to be backfilled with General Fund. This potential General Fund liability increases to \$6.5 million, when considering staff's recommended \$4.2 million allocated to federal funds for FY 2020-21. Given the Governor's interest in setting aside additional state funds for a potential economic downturn, staff recommends that the use of this amount of General Fund for this purpose will provide a similar cushion for the State in the event of a downturn.

Staff's recommendation identifies the total federal funds amount to be backfilled with General Fund as \$4,182,743. The following tables outline the request and the recommendation.

PERA DIRECT DISTRIBUTION - REQUESTED STATE AGENCY APPROPRIATIONS					
FY 2020-21 PERA DIRECT DISTRIBUTION	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$481,308	\$157,816	\$323,492	\$0	\$0
Corrections	9,388,586	9,133,713	254,873	0	0
Education	1,220,885	393,423	198,216	152,164	477,082
Governor's Office	2,427,624	265,081	75,541	2,067,849	19,153
Health Care Policy and Financing	977,212	362,029	74,767	25,089	515,327
Higher Education – Admin & Hist.CO	441,132	41,058	228,276	93,094	78,704
Human Services	7,450,138	4,841,100	377,781	1,401,861	829,396
Judicial	8,470,053	7,928,512	541,541	0	0
Labor and Employment	2,035,721	126,757	757,070	11,563	1,140,331
Law	1,121,212	300,852	136,665	658,925	24,770
Legislature	660,409	660,409	0	0	0
Local affairs	323,311	95,436	44,897	117,194	65,784
Military and Veterans Affairs	238,282	(71,510)	3,540	0	306,252
Natural Resources	2,936,081	448,246	2,329,066	86,385	72,384
Personnel	671,728	260,137	32,065	379,526	0
Public Health and Environment	2,671,912	435,269	896,320	279,116	1,061,207
Public Safety	3,859,352	924,569	2,518,528	319,687	96,568
Regulatory Agencies	1,040,006	33,059	932,314	63,875	10,758
Revenue	2,143,176	813,066	1,311,359	2,115	16,636
State	245,319	0	245,319	0	0
Transportation	5,197,200	0	5,197,200	0	0
Treasury	49,947	31,876	18,071	0	0
TOTAL	\$54,050,594	\$27,180,898	\$16,496,901	\$5,658,443	4,714,352

PERA DIRECT DISTRIBUTION - RECOMMENDED STATE AGENCY APPROPRIATIONS					
FY 2020-21 PERA DIRECT DISTRIBUTION	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$481,308	\$157,816	\$323,492	\$0	\$0
Corrections	9,388,586	9,128,687	259,899	0	0
Education	1,220,885	393,406	198,219	152,168	477,092
Governor's Office	2,427,624	216,878	58,019	2,138,775	13,952
Health Care Policy and Financing	977,212	363,858	74,277	22,307	516,770
Higher Education - Admin & Hist.CO	441,132	30,727	280,534	72,357	57,514
Human Services	7,450,138	5,101,079	74,354	1,799,456	475,249
Judicial	8,470,053	8,000,403	469,650	0	0
Labor and Employment	2,035,720	126,758	757,070	11,563	1,140,329
Law	1,121,212	301,065	137,650	657,504	24,993
Legislature	660,409	660,409	0	0	0
Local affairs	323,311	95,436	44,897	117,194	65,784
Military and Veterans Affairs	238,282	81,246	3,540	0	153,496
Natural Resources	2,936,082	448,249	2,329,063	86,386	72,384
Personnel	671,727	260,140	32,065	379,522	0
Public Health and Environment	2,671,912	435,270	896,319	279,116	1,061,207
Public Safety	3,859,353	924,586	2,518,486	319,705	96,576
Regulatory Agencies	1,040,006	33,071	932,277	63,897	10,761
Revenue	2,143,176	813,077	1,311,348	2,115	16,636
State	245,319	0	245,319	0	0
Transportation	5,197,200	0	5,197,200	0	0
Treasury	49,947	31,876	18,071	0	0
TOTAL	\$54,050,594	\$27,604,037	\$16,161,749	\$6,102,065	4,182,743
Federal Funds backfill w/ General Fund	0	4,182,743	0	0	(4,182,743)
Statewide Recommendation	\$54,050,594	\$31,786,780	\$16,161,749	\$6,102,065	0

The following table outlines the appropriation request and recommendation for all PERA Amortization Payments.

PERA AMORTIZATION PAYMENTS - REQUEST AND RECOMMENDATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2020-21 Estimated Salary Base	\$2,212,821,853	\$1,238,967,816	\$512,820,214	\$271,318,266	\$189,715,557
FY 2019-20 Appropriation					
AED	\$96,798,550	\$53,950,650	\$22,983,454	\$11,272,443	\$8,592,003
SAED	\$96,620,642	\$53,773,958	\$22,983,382	\$11,271,629	\$8,591,673
PERA Direct Distribution	56,469,931	28,486,185	17,519,667	5,552,654	4,911,425
Subtotal - PERA Amortization Payments	\$249,889,123	\$136,210,793	\$63,486,503	\$28,096,726	\$22,095,101
FY 2020-21 Request					
AED	\$100,495,338	\$56,179,080	\$23,235,605	\$12,426,627	\$8,654,026
SAED	\$100,495,338	\$56,179,080	\$23,235,605	\$12,426,627	\$8,654,026
PERA Direct Distribution	54,050,594	27,180,898	16,496,901	5,658,443	4,714,352
Subtotal - PERA Amortization Payments	\$255,041,270	\$139,539,058	\$62,968,111	\$30,511,697	\$22,022,404
PERA Amort. Approp. Percent of Salary Base	11.5%	11.3%	12.3%	11.2%	11.6%
Request Increase/(Decrease)	\$5,152,147	\$3,328,265	(\$518,392)	\$2,414,971	(\$72,697)
Percent Change	2.1%	2.4%	(0.8%)	8.6%	(0.3%)
PERA Amort. Payments Increase on Salary Base	0.2%	0.3%	(0.1%)	0.9%	(0.0%)
FY 2020-21 Recommendation					
AED	\$101,271,762	\$56,554,909	\$23,451,162	\$12,527,404	\$8,738,287

PERA AMORTIZATION PAYMENTS - REQUEST AND RECOMMENDATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
SAED	\$101,271,762	\$56,554,909	\$23,451,162	\$12,527,404	\$8,738,287
PERA Direct Distribution	54,050,594	31,786,780	16,161,749	6,102,065	0
Subtotal - PERA Amortization Payments	\$256,594,118	\$144,896,598	\$63,064,073	\$31,156,873	\$17,476,574
PERA Amort. Approp. Percent of Salary Base	11.6%	11.7%	12.3%	11.5%	9.2%
Recommendation Increase/(Decrease)	\$6,704,995	\$8,685,805	(\$422,430)	\$3,060,147	(\$4,618,527)
Percent Change	2.7%	6.4%	(0.7%)	10.9%	(20.9%)
PERA Amort. Payments Increase on Salary Base	0.3%	0.7%	(0.1%)	1.1%	(2.4%)
Recommendation difference from Request	\$1,552,848	\$5,357,540	\$95,962	\$645,176	(\$4,545,830)

(5) SUMMARY OF COMPENSATION COMPONENTS

SUMMARY OF ALL STATEWIDE COMPENSATION AND PERA AMORTIZATION COMPONENTS					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2019-20 Appropriation					
Shift Differential	18,059,304	14,125,081	594,743	3,285,532	53,948
Salary Survey	58,966,457	29,759,916	16,033,773	7,312,806	5,859,961
Merit Pay	11,641,074	10,559,751	580,610	492,399	8,314
Health, Life, and Dental	287,247,601	168,977,137	63,372,916	31,744,675	23,152,873
Short-term Disability	3,147,472	1,734,352	748,012	377,387	287,721
AED	96,798,550	53,950,650	22,983,454	11,272,443	8,592,003
SAED	96,620,642	53,773,958	22,983,382	11,271,629	8,591,673
PERA Direct Distribution	56,469,931	28,486,185	17,519,667	5,552,654	4,911,425
Paid Family Leave	0	0	0	0	0
TOTAL	\$628,951,031	\$361,367,030	\$144,816,557	\$71,309,525	\$51,457,919
FY 2020-21 Request					
Shift Differential	18,106,359	14,177,714	721,901	2,204,984	1,001,760
Salary Survey	41,589,232	22,163,035	10,034,278	5,596,534	3,795,385
Merit Pay	5,089,106	4,397,070	388,076	301,713	2,247
Health, Life, and Dental	309,794,012	178,372,572	70,221,943	35,911,351	25,288,146
Short-term Disability	3,250,006	1,782,981	761,953	416,472	288,600
AED	100,495,338	56,179,080	23,235,605	12,426,627	8,654,026
SAED	100,495,338	56,179,080	23,235,605	12,426,627	8,654,026
PERA Direct Distribution	54,050,594	27,180,898	16,496,901	5,658,443	4,714,352
Paid Family Leave	9,996,442	7,369,857	1,081,946	825,465	719,174
TOTAL	\$642,866,427	\$367,802,287	\$146,178,208	\$75,768,216	\$53,117,716
Increase/(Decrease)	\$13,915,396	\$6,435,257	\$1,361,651	\$4,458,691	\$1,659,797
Percent Change	2.2%	1.8%	0.9%	6.3%	3.2%
Discretionary Compensation Components Increase on FY19-20 Total Compensation	0.5%	0.4%	0.2%	1.5%	0.7%
Discretionary Compensation Components Increase on FY 2020-21 Salary Base	0.6%	0.5%	0.3%	1.6%	0.9%
FY 2020-21 Recommendation					
Shift Differential	18,106,359	14,177,714	721,901	2,204,984	1,001,760
Salary Survey	59,490,277	30,716,285	14,917,892	8,164,577	5,691,523
Merit Pay	0	0	0	0	0
Health, Life, and Dental	309,794,012	178,372,572	70,221,943	35,911,351	25,288,146
Short-term Disability	3,275,929	1,795,612	769,020	419,871	291,426
AED	101,271,762	56,554,909	23,451,162	12,527,404	8,738,287
SAED	101,271,762	56,554,909	23,451,162	12,527,404	8,738,287
PERA Direct Distribution	54,050,594	31,786,780	16,161,749	6,102,065	0
Paid Family Leave	0	0	0	0	0
TOTAL	\$647,260,695	\$369,958,781	\$149,694,829	\$77,857,656	\$49,749,429
Increase/(Decrease)	\$18,309,664	\$8,591,751	\$4,878,272	\$6,548,131	(\$1,708,490)
Percent Change	2.9%	2.4%	3.4%	9.2%	(3.3%)
Discretionary Compensation Components Increase on FY19-20 Total Compensation	0.7%	0.6%	0.7%	2.3%	(0.7%)
Discretionary Compensation Components Increase on FY 2020-21 Salary Base	0.8%	0.7%	1.0%	2.4%	(0.9%)

(6) COMPENSATION ASSUMPTIONS FOR NEW FTE

When estimating funding required for new FTE, JBC staff and Legislative Council (LCS) Fiscal Notes Staff generally use the same assumptions. The key components of the assumptions for compensation for new FTE include:

- Salaries at the minimum of the current year range for the job class unless sufficient evidence is provided to deviate from this policy.
- First-year impacts are prorated to reflect the effective date of the bill and reflect the payday shift for General Fund employees.
- FTE assumptions are based on a work year of 2,080 hours.
- Certain benefits and operating expenses are estimated, but excluded from the total cost identified in fiscal notes, including compensation POTS and some operating costs as follow:
 - Health, life, and dental;
 - Short-term disability;
 - AED and SAED; and
 - Leased space and indirect costs.

An exception to the exclusion is provided for increases of at least 20.0 new FTE in staff.

Providing funding for new FTE at current year salary rates and excluding related compensation and certain operating costs results in less-than-full-funding for new FTE. However, it is not uncommon for departments to experience delays in hiring which reduces the FTE cost in the first year. Additionally, the budget policies for new FTE require departments to dedicate some vacancy, turnover, or other operating savings to fully fund new staff in the first year of operations. This policy serves to ensure that departments are also committed to the cost of new FTE.

In the second year of operations, all excluded benefits and operating expenses are built into a department's budget through the normal budget processes. Costs for health, life, and dental insurance are re-estimated every year based on current enrollment. Similarly, the base salary assumptions that drive expenditures for short-term disability, AED, and SAED, are recalculated each year.

Leased space costs are driven by actual leased space needs determined on their own cycle generally independent of staffing adjustments and through their own decision items. Other centralized operating and indirect costs are likewise structured into the budget as operating common policy base adjustments.

The advantage to "fully funding" new FTE from the budget perspective is a recognition of the full cost at the time of the decision. The budget process uses the cost or pricing signal more effectively when costs are fully included. As individual decisions are made across budget items and bills over the course of a legislative session, those incremental costs will generate a slightly higher subtotal. The relatively invisible, but incrementally greater amount generated in a given year would incrementally impact final Committee balancing decisions.

DECISION ITEM – COMPENSATION ASSUMPTIONS FOR NEW FTE

→ COMPENSATION ASSUMPTIONS FOR NEW FTE

REQUEST: State agency request items generally estimate salaries for new FTE at the minimum of the current year range for the job class, with occasional exceptions with accompanying explanations and justifications, consistent with the JBC and LCS Fiscal Note assumptions. However, Executive Branch requests generally include compensation benefits POTS and operating expenses that are excluded from the JBC and LCS Fiscal Note assumptions.

RECOMMENDATION: Staff recommends continuing the current JBC and LCS Fiscal Note assumptions when estimating compensation with the following adjustments:

- Staff recommends lowering the FTE threshold to 10.0 FTE in a single budget item or bill, for which centrally appropriated compensation POTS would be appropriated in the item or bill.
- Staff recommends establishing a total department increase of 20.0 FTE in a single year, through budget items or bills, for which centrally appropriated compensation POTS would be appropriated for each additional FTE included in a budget item or identified in a fiscal note for a bill. At the point that budget items are included in the introduced Long Bill or appropriations are included in bills passed by the General Assembly, totaling at least 20.0 FTE, JBC staff and Legislative Council (LCS) Fiscal Note Staff will recommend appropriating compensation POTS for each additional FTE identified through the budget and fiscal note process.

These changes may impact current fiscal notes in bills already prepared. Nevertheless, staff recommends these adjustments to begin as soon as possible within the 2020 legislative session.

(7) REQUEST AND RECOMMENDATION COMPENSATION COMPONENTS BY DEPARTMENT

The following tables outline the request and recommendation (or request for policies not recommended) for compensation common policy components in Long Bill order by department.

HEALTH, LIFE, AND DENTAL (HLD) – REQUESTED AND RECOMMENDED STATE AGENCY APPROPRIATIONS					
FY 2020-21 HLD	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$3,306,348	\$907,735	\$2,398,613	\$0	\$0
Corrections	63,389,226	61,482,865	1,906,361	0	0
Education	6,709,143	2,546,146	1,028,946	715,649	2,418,402
Governor's Office	12,826,570	980,764	347,069	11,410,558	88,179
Health Care Policy and Financing	6,009,222	2,191,279	522,908	138,532	3,156,503
Higher Education - Admin & Hist.CO	2,203,028	140,020	1,319,564	339,958	403,486
Human Services	50,499,827	34,656,330	510,059	12,179,008	3,154,430
Judicial	53,004,043	49,909,693	3,094,350	0	0
Labor and Employment	13,099,778	864,040	4,611,657	63,288	7,560,793

**HEALTH, LIFE, AND DENTAL (HLD) –
REQUESTED AND RECOMMENDED STATE AGENCY APPROPRIATIONS**

FY 2020-21 HLD	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Law	5,535,510	1,442,438	631,515	3,314,428	147,129
Legislature	3,707,449	3,707,449	0	0	0
Local affairs	2,045,658	639,318	344,155	650,655	411,530
Military and Veterans Affairs	1,463,897	531,899	23,753	0	908,245
Natural Resources	18,103,446	3,266,817	13,945,104	518,590	372,935
Personnel	4,358,747	1,379,999	191,744	2,787,004	0
Public Health and Environment	15,384,636	2,637,076	5,265,982	1,550,761	5,930,817
Public Safety	22,060,735	4,846,665	14,767,470	1,898,385	548,215
Regulatory Agencies	5,984,809	181,461	5,393,502	331,470	78,376
Revenue	16,880,071	5,897,877	10,860,023	13,065	109,106
State	1,454,213	0	1,454,213	0	0
Transportation	1,458,525	0	1,458,525	0	0
Treasury	309,131	162,701	146,430	0	0
TOTAL	\$309,794,012	\$178,372,572	\$70,221,943	\$35,911,351	25,288,146

SHORT TERM DISABILITY - REQUESTED STATE AGENCY APPROPRIATIONS

FY 2020-21 STD	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$30,526	\$9,999	\$20,527	\$0	\$0
Corrections	618,318	600,906	17,412	0	0
Education	82,789	26,559	13,470	10,340	32,420
Governor's Office	165,293	14,716	3,934	145,697	946
Health Care Policy and Financing	71,787	26,729	5,457	1,639	37,962
Higher Education - Admin & Hist.CO	22,296	1,559	13,603	3,989	3,145
Human Services	492,827	338,212	4,978	118,855	30,782
Judicial	501,174	468,209	32,965	0	0
Labor and Employment	136,404	8,495	50,735	775	76,399
Law	83,845	22,498	10,220	49,275	1,852
Legislature	45,480	45,480	0	0	0
Local affairs	23,913	7,059	3,321	8,668	4,865
Military and Veterans Affairs	17,849	6,104	266	0	11,479
Natural Resources	186,306	28,451	147,778	5,483	4,594
Personnel	45,858	17,784	2,192	25,882	0
Public Health and Environment	190,486	31,035	63,893	19,902	75,656
Public Safety	257,969	61,900	168,216	21,378	6,475
Regulatory Agencies	72,015	2,291	64,553	4,426	745
Revenue	164,713	62,559	100,711	163	1,280
State	17,448	0	17,448	0	0
Transportation	18,893	0	18,893	0	0
Treasury	3,817	2,436	1,381	0	0
TOTAL	\$3,250,006	\$1,782,981	\$761,953	\$416,472	288,600

SHORT TERM DISABILITY - RECOMMENDED STATE AGENCY APPROPRIATIONS

FY 2020-21 STD	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$30,824	\$10,097	\$20,727	\$0	\$0
Corrections	624,376	606,794	17,582	0	0
Education	83,601	26,819	13,602	10,442	32,738
Governor's Office	166,913	14,860	3,973	147,125	955
Health Care Policy and Financing	72,491	26,991	5,510	1,655	38,335
Higher Education - Admin & Hist.CO	22,514	1,574	13,736	4,028	3,176
Human Services	497,657	341,527	5,026	120,020	31,084
Judicial	501,174	468,209	32,965	0	0
Labor and Employment	137,741	8,578	51,232	783	77,148

SHORT TERM DISABILITY - RECOMMENDED STATE AGENCY APPROPRIATIONS					
FY 2020-21 STD	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Law	83,689	22,472	10,274	49,077	1,866
Legislature	45,925	45,925	0	0	0
Local affairs	24,147	7,128	3,353	8,753	4,913
Military and Veterans Affairs	18,024	6,164	269	0	11,591
Natural Resources	188,133	28,730	149,227	5,537	4,639
Personnel	46,307	17,958	2,213	26,136	0
Public Health and Environment	192,353	31,339	64,519	20,097	76,398
Public Safety	260,484	62,503	169,857	21,586	6,538
Regulatory Agencies	72,696	2,312	65,164	4,468	752
Revenue	166,327	63,172	101,698	164	1,293
State	17,619	0	17,619	0	0
Transportation	19,079	0	19,079	0	0
Treasury	3,855	2,460	1,395	0	0
TOTAL	\$3,275,929	\$1,795,612	\$769,020	\$419,871	291,426

Appropriations for AED and SAED for each state agency is the same. Due to the number of tables necessary to reflect compensation policies, staff includes a single table reflecting the appropriations to be made for AED and SAED policies. The tables should be read as appropriations for either policy and not as a sum of both policies.

AED/SAED - REQUESTED STATE AGENCY APPROPRIATIONS					
FY 2020-21 AED/SAED	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$957,546	\$313,970	\$643,576	\$0	\$0
Corrections	18,583,144	18,068,803	514,341	0	0
Education	2,448,136	788,898	397,464	305,122	956,652
Governor's Office	4,881,977	436,136	116,675	4,301,109	28,057
Health Care Policy and Financing	2,173,132	809,150	165,179	49,606	1,149,197
Higher Education - Admin & Hist.CO	715,301	49,825	454,890	117,327	93,259
Human Services	14,848,629	10,166,573	148,174	3,586,490	947,392
Judicial	17,432,596	16,465,989	966,607	0	0
Labor and Employment	4,027,369	250,771	1,497,748	22,876	2,255,974
Law	2,466,057	661,711	300,589	1,449,277	54,480
Legislature	1,528,072	1,528,072	0	0	0
Local affairs	722,825	213,365	100,376	262,012	147,072
Military and Veterans Affairs	532,832	181,672	7,916	0	343,244
Natural Resources	6,142,256	937,727	4,872,386	180,717	151,426
Personnel	1,376,930	533,237	65,727	777,966	0
Public Health and Environment	5,725,575	932,728	1,920,702	598,110	2,274,035
Public Safety	7,732,160	1,852,362	5,045,837	640,488	193,473
Regulatory Agencies	2,128,475	67,661	1,908,072	130,727	22,015
Revenue	4,863,376	1,845,040	2,975,786	4,800	37,750
State	524,642	0	524,642	0	0
Transportation	566,179	0	566,179	0	0
Treasury	118,129	75,390	42,739	0	0
TOTAL	\$100,495,338	\$56,179,080	\$23,235,605	\$12,426,627	8,654,026

AED/SAED - RECOMMENDED STATE AGENCY APPROPRIATIONS					
FY 2020-21 AED/SAED	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$966,896	\$317,036	\$649,860	\$0	\$0
Corrections	18,761,400	18,242,039	519,361	0	0
Education	2,472,088	796,582	401,360	308,114	966,032
Governor's Office	4,929,762	440,412	117,819	4,343,199	28,332

AED/SAED - RECOMMENDED STATE AGENCY APPROPRIATIONS

FY 2020-21 AED/SAED	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Health Care Policy and Financing	2,194,436	817,082	166,798	50,093	1,160,463
Higher Education - Admin & Hist.CO	722,315	50,313	459,350	118,478	94,174
Human Services	14,990,728	10,264,090	149,610	3,620,760	956,268
Judicial	17,432,596	16,465,989	966,607	0	0
Labor and Employment	4,066,847	253,230	1,512,432	23,100	2,278,085
Law	2,461,428	660,936	302,187	1,443,437	54,868
Legislature	1,543,054	1,543,054	0	0	0
Local affairs	729,912	215,457	101,361	264,580	148,514
Military and Veterans Affairs	538,038	183,452	7,993	0	346,593
Natural Resources	6,202,445	946,921	4,920,124	182,489	152,911
Personnel	1,390,411	538,465	66,372	785,574	0
Public Health and Environment	5,781,699	941,872	1,939,527	603,974	2,296,326
Public Safety	7,807,320	1,870,401	5,094,799	646,750	195,370
Regulatory Agencies	2,148,619	68,324	1,926,055	132,009	22,231
Revenue	4,910,978	1,863,125	3,004,886	4,847	38,120
State	529,786	0	529,786	0	0
Transportation	571,717	0	571,717	0	0
Treasury	119,287	76,129	43,158	0	0
TOTAL	\$101,271,762	\$56,554,909	\$23,451,162	\$12,527,404	8,738,287

PERA DIRECT DISTRIBUTION - REQUESTED STATE AGENCY APPROPRIATIONS

FY 2020-21 PERA DIRECT DISTRIBUTION	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$481,308	\$157,816	\$323,492	\$0	\$0
Corrections	9,388,586	9,133,713	254,873	0	0
Education	1,220,885	393,423	198,216	152,164	477,082
Governor's Office	2,427,624	265,081	75,541	2,067,849	19,153
Health Care Policy and Financing	977,212	362,029	74,767	25,089	515,327
Higher Education - Admin & Hist.CO	441,132	41,058	228,276	93,094	78,704
Human Services	7,450,138	4,841,100	377,781	1,401,861	829,396
Judicial	8,470,053	7,928,512	541,541	0	0
Labor and Employment	2,035,721	126,757	757,070	11,563	1,140,331
Law	1,121,212	300,852	136,665	658,925	24,770
Legislature	660,409	660,409	0	0	0
Local affairs	323,311	95,436	44,897	117,194	65,784
Military and Veterans Affairs	238,282	(71,510)	3,540	0	306,252
Natural Resources	2,936,081	448,246	2,329,066	86,385	72,384
Personnel	671,728	260,137	32,065	379,526	0
Public Health and Environment	2,671,912	435,269	896,320	279,116	1,061,207
Public Safety	3,859,352	924,569	2,518,528	319,687	96,568
Regulatory Agencies	1,040,006	33,059	932,314	63,875	10,758
Revenue	2,143,176	813,066	1,311,359	2,115	16,636
State	245,319	0	245,319	0	0
Transportation	5,197,200	0	5,197,200	0	0
Treasury	49,947	31,876	18,071	0	0
TOTAL	\$54,050,594	\$27,180,898	\$16,496,901	\$5,658,443	4,714,352

PERA DIRECT DISTRIBUTION - RECOMMENDED STATE AGENCY APPROPRIATIONS

FY 2020-21 PERA DIRECT DISTRIBUTION	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$481,308	\$157,816	\$323,492	\$0	\$0
Corrections	9,388,586	9,128,687	259,899	0	0
Education	1,220,885	870,498	198,219	152,168	0
Governor's Office	2,427,624	230,830	58,019	2,138,775	0
Health Care Policy and Financing	977,212	880,628	74,277	22,307	0

PERA DIRECT DISTRIBUTION - RECOMMENDED STATE AGENCY APPROPRIATIONS					
FY 2020-21 PERA DIRECT DISTRIBUTION	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Higher Education - Admin & Hist.CO	441,132	88,241	280,534	72,357	0
Human Services	7,450,138	5,576,328	74,354	1,799,456	0
Judicial	8,470,053	8,000,403	469,650	0	0
Labor and Employment	2,035,720	1,267,087	757,070	11,563	0
Law	1,121,212	326,058	137,650	657,504	0
Legislature	660,409	660,409	0	0	0
Local affairs	323,311	161,220	44,897	117,194	0
Military and Veterans Affairs	238,282	234,742	3,540	0	0
Natural Resources	2,936,082	520,633	2,329,063	86,386	0
Personnel	671,727	260,140	32,065	379,522	0
Public Health and Environment	2,671,912	1,496,477	896,319	279,116	0
Public Safety	3,859,353	1,021,162	2,518,486	319,705	0
Regulatory Agencies	1,040,006	43,832	932,277	63,897	0
Revenue	2,143,176	829,713	1,311,348	2,115	0
State	245,319	0	245,319	0	0
Transportation	5,197,200	0	5,197,200	0	0
Treasury	49,947	31,876	18,071	0	0
TOTAL	\$54,050,594	\$31,786,780	\$16,161,749	\$6,102,065	0

SALARY SURVEY - REQUESTED STATE AGENCY APPROPRIATIONS					
FY 2020-21 SALARY SURVEY	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$423,084	\$138,444	\$284,640	\$0	\$0
Corrections	8,013,331	7,787,754	225,577	0	0
Education	1,076,326	345,293	175,093	134,440	421,500
Governor's Office	2,150,178	192,162	51,405	1,894,249	12,362
Health Care Policy and Financing	957,481	356,514	72,776	21,855	506,336
Higher Education - Admin & Hist.CO	315,159	21,952	200,425	51,693	41,089
Human Services	6,386,529	4,382,855	64,507	1,540,234	398,933
Judicial	5,008,214	4,858,609	149,605	0	0
Labor and Employment	1,774,154	110,488	659,891	10,079	993,696
Law	1,314,736	354,500	136,752	798,548	24,936
Legislature	673,251	673,251	0	0	0
Local affairs	318,470	94,007	44,225	115,440	64,798
Military and Veterans Affairs	234,066	80,049	3,487	0	150,530
Natural Resources	2,705,764	413,165	2,146,257	79,629	66,713
Personnel	605,834	234,943	28,977	341,914	0
Public Health and Environment	2,522,246	410,934	846,023	263,519	1,001,770
Public Safety	3,467,401	832,043	2,263,746	285,222	86,390
Regulatory Agencies	969,706	29,807	872,602	57,598	9,699
Revenue	2,141,253	813,048	1,309,458	2,114	16,633
State	231,151	0	231,151	0	0
Transportation	248,851	0	248,851	0	0
Treasury	52,047	33,217	18,830	0	0
TOTAL	\$41,589,232	\$22,163,035	\$10,034,278	\$5,596,534	3,795,385

SALARY SURVEY - RECOMMENDED STATE AGENCY APPROPRIATIONS					
FY 2020-21 SALARY SURVEY	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$633,186	\$207,335	\$425,851	\$0	\$0
Corrections	12,018,743	11,680,377	338,366	0	0
Education	1,614,492	517,941	262,640	201,661	632,250
Governor's Office	3,223,899	288,243	77,108	2,840,006	18,542
Health Care Policy and Financing	1,436,185	534,753	109,164	32,784	759,484
Higher Education - Admin & Hist.CO	472,731	32,929	300,628	77,540	61,634

SALARY SURVEY - RECOMMENDED STATE AGENCY APPROPRIATIONS					
FY 2020-21 SALARY SURVEY	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Human Services	9,579,488	6,574,073	96,757	2,310,277	598,381
Judicial	5,008,214	4,858,609	149,605	0	0
Labor and Employment	2,661,221	165,730	989,835	15,118	1,490,538
Law	1,642,653	439,948	197,772	969,024	35,909
Legislature	1,009,876	1,009,876	0	0	0
Local affairs	477,701	141,009	66,337	173,158	97,197
Military and Veterans Affairs	351,067	120,063	5,232	0	225,772
Natural Resources	4,058,197	619,748	3,218,933	119,444	100,072
Personnel	908,734	352,406	43,466	512,862	0
Public Health and Environment	3,783,348	616,399	1,269,019	395,279	1,502,651
Public Safety	5,179,291	1,242,905	3,378,937	427,856	129,593
Regulatory Agencies	1,422,325	44,709	1,276,669	86,397	14,550
Revenue	3,210,851	1,219,408	1,963,322	3,171	24,950
State	346,727	0	346,727	0	0
Transportation	373,278	0	373,278	0	0
Treasury	78,070	49,824	28,246	0	0
TOTAL	\$59,490,277	\$30,716,285	\$14,917,892	\$8,164,577	5,691,523

MERIT PAY - REQUESTED STATE AGENCY APPROPRIATIONS					
FY 2020-21 MERIT PAY	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$0	\$0	\$0	\$0	\$0
Corrections	0	0	0	0	0
Education	0	0	0	0	0
Governor's Office	0	0	0	0	0
Health Care Policy and Financing	0	0	0	0	0
Higher Education - Admin & Hist.CO	0	0	0	0	0
Human Services	0	0	0	0	0
Judicial	4,657,175	4,294,194	362,981	0	0
Labor and Employment	0	0	0	0	0
Law	431,931	102,876	25,095	301,713	2,247
Legislature	0	0	0	0	0
Local affairs	0	0	0	0	0
Military and Veterans Affairs	0	0	0	0	0
Natural Resources	0	0	0	0	0
Personnel	0	0	0	0	0
Public Health and Environment	0	0	0	0	0
Public Safety	0	0	0	0	0
Regulatory Agencies	0	0	0	0	0
Revenue	0	0	0	0	0
State	0	0	0	0	0
Transportation	0	0	0	0	0
Treasury	0	0	0	0	0
TOTAL	\$5,089,106	\$4,397,070	\$388,076	\$301,713	2,247

SHIFT DIFFERENTIAL – REQUESTED AND RECOMMENDED STATE AGENCY APPROPRIATIONS					
FY 2020-21 SHIFT DIFFERENTIAL	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$10,788	\$10,788	\$0	\$0	\$0
Corrections	8,969,593	8,918,267	51,326	0	0
Education	116,968	116,968	0	0	0
Governor's Office	84,471	0	0	84,471	0
Health Care Policy and Financing	0	0	0	0	0
Higher Education - Admin & Hist.CO	0	0	0	0	0

SHIFT DIFFERENTIAL – REQUESTED AND RECOMMENDED STATE AGENCY APPROPRIATIONS					
FY 2020-21 SHIFT DIFFERENTIAL	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Human Services	7,946,021	4,922,932	39,879	2,038,728	944,482
Judicial	150,213	150,213	0	0	0
Labor and Employment	13,410	0	0	0	13,410
Law	0	0	0	0	0
Legislature	0	0	0	0	0
Local affairs	0	0	0	0	0
Military and Veterans Affairs	36,438	0	0	0	36,438
Natural Resources	38,953	0	38,953	0	0
Personnel	42,664	0	0	42,664	0
Public Health and Environment	19,847	865	11,552	0	7,430
Public Safety	522,432	57,681	425,630	39,121	0
Regulatory Agencies	0	0	0	0	0
Revenue	123,918	0	123,918	0	0
State	0	0	0	0	0
Transportation	30,643	0	30,643	0	0
Treasury	0	0	0	0	0
TOTAL	\$18,106,359	\$14,177,714	\$721,901	\$2,204,984	1,001,760

PAID FAMILY LEAVE - REQUESTED STATE AGENCY APPROPRIATIONS					
FY 2020-21 PAID FAMILY LEAVE	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	\$85,111	\$56,476	\$28,635	\$0	\$0
Corrections	3,671,815	3,568,417	103,398	0	0
Education	67,392	57,379	0	10,013	0
Governor's Office	0	0	0	0	0
Health Care Policy and Financing	33,121	12,331	2,518	757	17,515
Higher Education - Admin & Hist.CO	1,401,371	1,401,371	0	0	0
Human Services	2,935,547	1,997,692	28,365	711,860	197,630
Judicial	0	0	0	0	0
Labor and Employment	545,397	33,965	205,957	0	305,475
Law	0	0	0	0	0
Legislature	0	0	0	0	0
Local affairs	11,203	6,720	0	0	4,483
Military and Veterans Affairs	26,574	10,630	0	0	15,944
Natural Resources	209,401	31,979	166,095	6,163	5,164
Personnel	52,681	0	1,195	51,486	0
Public Health and Environment	429,684	70,006	144,125	44,893	170,660
Public Safety	86,105	10,333	75,772	0	0
Regulatory Agencies	81,688	0	81,688	0	0
Revenue	296,356	112,558	181,202	293	2,303
State	11,876	0	11,876	0	0
Transportation	51,120	0	51,120	0	0
Treasury	0	0	0	0	0
TOTAL	\$9,996,442	\$7,369,857	\$1,081,946	\$825,465	719,174

LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION

LONG BILL FOOTNOTES

There are no compensation policy-related Long Bill footnotes. Staff recommends no change.

REQUESTS FOR INFORMATION

There are no compensation policy-related requests for information. Staff recommends no change.



Department Priority: R-01
Request Detail: Paid Family Leave

Summary of Incremental Funding Change for FY 2020-21			
	FY 2019-20	FY 2020-21	FY 2021-22
Total Funds*	\$0	\$9,996,442	\$10,296,333
FTE	0.0	0.0	0.0
General Fund	\$0	\$5,494,624	\$5,659,462
Cash Funds	\$0	\$0	\$0
Reappropriated Funds	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0

*The General Fund amount is estimated; actual fund splits will be determined by departments in their non-prioritized requests. The remaining funds not included in General Fund will be based on fund splits to Cash Funds, Reappropriated Funds and Federal Funds by each department.

Summary of Request:

The Department of Personnel & Administration is requesting spending authority of \$9,996,442 statewide to cover the backfill costs associated with state employees utilizing 8 weeks of paid family leave in FY 2020-21 and an additional spending authority of \$10,296,333 in FY 2021-22 and ongoing. This aligns with the Department's wildly important goal to make State Government an "employer of choice."

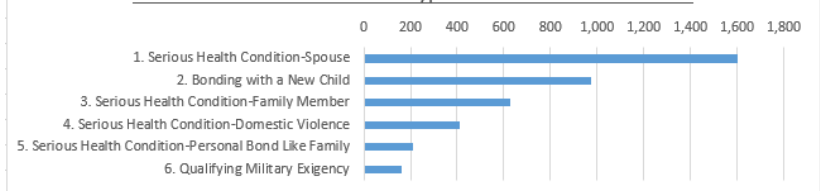
Currently, the Department is aware of six states that have passed legislation for paid family leave for state employees. Paid family leave refers to partially or fully compensated time away from work for caring and bonding with a newly arrived child, whether through circumstances such as birth, adoption, or foster placement of a child under 18 years of age, or caring for a family member or person with a significant bond that is like a family relationship that has a serious health condition including domestic abuse, sexual assault or abuse, and stalking, as well as for qualifying events for military exigency. The chart below demonstrates the frequency of each type of leave that the Department expects state employees to utilize.



Paid Family Leave has been shown through academic research to move the needle on a variety of social outcomes, including increased labor force participation, employee retention, lifetime earnings and retirement security (especially among women), and a reduction in the gender pay gap as a result of increasing usage of leave among working fathers. Research has also identified improved infant and child health outcomes, including reduced infant hospitalizations and fewer infants with low birth weight.

This request will cover the costs to backfill critical positions. This would apply to departments that have critical positions that must be filled, including 24 by 7 work centers, direct care positions, and hourly non-exempt positions.

Estimates of how often each type of benefit will be utilized



Current Program:

The Family Medical Leave Act (FMLA), passed in 1993, entitles eligible employees that have worked at least 1,250 hours in a 12-month period, to take up to 12 weeks per year of unpaid job-protected leave for the specified family and medical reasons: to recover from a serious illness, to care for an ill family member, to care for a newborn or a newly adopted or fostered child, or for certain military purposes.

The State Personnel Director is granted the authority to prescribe procedures for the types, amounts, and conditions for all leave benefits, that are typically consistent with prevailing practices in 24-50-104, C.R.S. Pursuant to State Personnel Rule, state employees that have been employed by the State for at least 12 months are eligible for up to 13 weeks (520 hours) of family and medical leave (FML) in a single 12-month period following the birth of a child or placement of a child through adoption or foster care and guarantees job protection only. Under the existing state policies, employees are required to use all sick leave, annual leave and compensatory time before being placed on unpaid FML. In addition, the State, as an employer, offers short-term disability (STD) benefits, when utilized covers 60 percent of the employee's salary for a maximum of \$3,000 a week for up to 150 days in a 12 month period and runs concurrent with FML.

Problem or Opportunity:

More than half of all American workers have access to unpaid, job-protected leave through the Family Medical Leave Act (FMLA). Since its passage, FMLA has been used more than 100 million times by American workers to help balance the demands of the workplace and home. While these protections cover about sixty percent of the workforce, many eligible employees cannot afford unpaid leave and return to work early, while other employees quit rather than returning, which increases costs to recruit and train new employees.¹ According to the Bureau of Labor Statistics, approximately only 14 percent of all American workers have access to paid family leave. According to the FY 2020-2021 Annual Compensation Report, for those employers who do offer the benefit, most (the median and the average) offer 7 weeks of leave. The State of Colorado may have recruitment and retention challenges by not maintaining competitive benefit packages with other employers.

Proposed Solution:

The Department is requesting \$9,996,442 total funds, including an estimate of \$5,494,624 in General Fund in FY 2020-21, to cover the cost to backfill critical positions for state employees taking up to 8 weeks of paid family leave. This would apply to departments that have critical positions that must be filled, including 24 by 7 work centers, direct care positions, and hourly non-exempt positions, with an estimated one-third of all positions requiring backfill. As the paid family leave and subsequent backfill costs will be paid simultaneously, additional appropriations are required as existing budgets may not have adequate funds to cover this cost.

If approved, requested funds will be appropriated directly to departments within a centrally appropriated line in each Executive Director's Office (EDO), which will allow departments the flexibility to move appropriations to the necessary personal services line items as needed when employees utilize paid family leave.

¹ <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>

Table 1 below provides the estimated total amount needed to implement state employee family leave.

Table 1: Summary of Spending Authority Requested for Statewide Agencies*

Estimated Annual Cost to Backfill Critical Positions	\$9,996,442
% of Utilized Benefit that will be Backfilled	31.3%

*The estimated annual paid family leave utilized is included in the existing appropriation, as employees would receive 8 weeks of pay whether they work or take leave. The estimated annual cost to backfill critical positions is the additional appropriation needed. The remaining 68.7% of costs will be absorbed by agencies and is expected to result in improvements in turnover and recruitment.

The request only applies to permanent state employees (classified and non-classified). As for Institutions of Higher Education, classified employees were included and non-classified employees were excluded. The Department assumes that temporary employees will not be impacted, as they are not eligible for benefits and paid leave in general.

The costs outlined in this request are reflective of the proposed paid family leave benefit, which includes types of qualifying events that extend beyond the protections offered under FMLA. The request will provide paid family leave for use by new-parent employees, to recover from the birth of a child and/or to care for and bond with a child or for employees that are caring for a family member or person with a signification bond that is like a family relationship with a serious health condition, including domestic abuse, sexual assault or abuse, and stalking, and for those employees that have a qualifying military exigency event.

The paid family leave benefit will cover salaries based on the average weekly wage of the employees base salary. Any overtime or other premiums paid in addition to the base pay will not be included as part of paid family leave. Similar to the requirements in Public Law 103-3, as amended, 29 U.S.C. sec. 2601, to take leave under FMLA, it is assumed the paid family leave will require employees to have worked 1,250 hours in a 12-month period prior to the date paid family leave commences. The paid family leave benefit will be granted for up to 320 hours (8 weeks) per rolling 12-month period. Further, the paid family leave will run concurrently with the unpaid, job-secured leave available through FMLA and for those qualifying for short-term disability, the combination of STD and paid family leave cannot exceed the covered individual's maximum weekly wage. An employee may supplement the paid family leave benefit through vacation, sick, or other paid time off, but is not required and the utilization of paid family leave will not affect the employee's annual or sick leave balances. The State Personnel Board and the Division of Human Resources will most likely require rulemaking to fully implement the coordination of benefits for this policy.

Anticipated Outcomes:

Research indicates that paid leave benefits workers and employers while also providing positive economic impacts. The economic benefits of paid leave can be summarized into five key factors:

- Increased labor-force participation
- Increased employee retention
- Has limited or positive impacts on business operations.
- Increases lifetime earnings and retirement security among workers, especially women.
- Increases the use of leave among working fathers

Research shows that paid leave increases the likelihood that workers will return to work after a qualifying event and saves employers the expenses associated with recruiting and training new employees. Higher labor force participation, either by men or women (or both), affects economic growth by increasing inputs to production. Since the effect of paid leave on labor force participation rates is typically much higher for

women than men, offering paid leave can help push the economy towards gender equality in labor force participation. Further, it improves employee morale, has positive or at least no negative effects on workplace productivity, reduces costs to employers through improved employee retention, and improves family incomes. Research further suggests that expanding paid leave is likely to have economy-wide benefits such as reduced government spending on public assistance, which would bring significant economic gains, generating a larger tax base and increased consumer spending. Additionally paid leave for fathers helps to foster gender equity, both in the workplace and in the home, since it shortens leaves for mothers, increasing their job tenure and potentially their wage growth².

The utilization of a paid family leave may drive a decreased usage of the STD benefit for the State, which may generate cost savings in future fiscal years. Also, the utilization of paid family leave will result in State employees utilizing less annual leave (AL) and sick leave (SL) which may increase overall balances; these balances are liabilities that departments will eventually need to pay out as employees leave the State (annual leave only) or retire (annual leave and a portion of sick leave). These impacts were not estimated for this request.

Assumptions and Calculations:

Table 2 outlines the estimated appropriations requested (total dollars) for critical position backfill, and the estimated appropriations requested as a percentage of the total benefit utilization.

² <https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/B334-Paid%20Parental%20Leave%20in%20the%20United%20States.pdf>

Table 2: Department Allocations

Department	Estimated Annual Cost to Backfill Positions	% of Total Utilized Benefit that will be Backfilled
Personnel & Administration	\$52,681	14.7%
Agriculture	\$85,111	40.0%
Corrections	\$3,671,815	79.0%
Education	\$67,392	9.2%
Governor's Office	\$0	0.0%
Public Health & Environment	\$429,684	28.7%
Higher Education	\$1,401,371	37.1%
Transportation	\$51,120	1.9%
Human Services	\$2,935,547	75.5%
Judicial Branch	\$0	0.0%
Labor & Employment	\$545,397	49.5%
Law	\$0	0.0%
General Assembly	\$0	0.0%
Local Affairs	\$11,203	5.9%
Military & Veterans Affairs	\$26,574	21.4%
Natural Resources	\$209,401	18.2%
Public Safety	\$86,105	4.3%
Regulatory Agencies	\$81,688	14.3%
Revenue	\$296,356	24.4%
Health Care Policy & Financing	\$33,121	6.1%
State	\$11,876	9.1%
Treasury	\$0	0.0%
Total	\$9,996,442	31.3%

*Existing appropriations in FY2020-21 are expected to cover the benefit utilization costs.

To estimate the overall fiscal impact, the following assumptions were utilized:

- Employee demographics included in the analysis were pulled from the most recent workforce data (April 2019) and summarized at the Department level for state agencies. Estimated usage of paid family leave utilizes an average base salary by department and assumes that employees who have been employed for 1,250 hours in a 12-month period prior to the date family leave will begin are eligible for the benefit, similar to the requirements under FMLA.
- The overall utilization rate of 10.2% is based on the number of employees that are currently eligible for FML, combined with the estimated occurrence of all qualifying events including for birth, adoption, foster placement (bonding with child), caring for a family member or person with a significant bond that is like a family relationship that has a serious health condition including domestic abuse, sexual assault or abuse, and stalking, as well as for military exigency events. The utilization rate assumes that each employee has an average of three family members, and one additional person with a significant bond like family. The table below outlines the calculations and assumptions.

Table 3: Utilization Estimates and Assumptions

Qualifying Event	State Employee Occurrence per Fiscal Year	Calculation
Birth, Adoption, Foster Placement (Bonding with Child)	975	CDC fertility rates by age bands by department*
Serious Health Condition-Domestic Violence	413	(# of Domestic Violence crisis calls / State of CO population) multiplied by # of state employees
Serious Health Condition-Personal Bond Like Family	209	(CDC State illnesses and death rate / State of CO population) multiplied by # of state employees; assuming one personal bond like family per employee
Serious Health Condition-Spouse	1,604	((CDC State of CO marriage rate - State of CO divorce rate) / State of CO population)) multiplied by # of state employees
Serious Health Condition-Family Member	626	(CDC State illnesses and death rate / State of CO population) multiplied by # of state employees; assuming 3 family members per employee
Qualifying Exigency	161	(# of active duty members + # of army national guard in CO / State of CO population) multiplied by # of state employees
Total Estimated Use (# of Occurrences)	3,987	
Total State Employee Population	39,133	Count from April 2019 Workforce data
Estimated Utilization	10.2%	Total estimated use (3,987) / State employee population (39,133)

*Based on November 2018 workforce data resulted in an estimate of 2.5% utilization, this rate was applied to April 2019 workforce data.

- The calculation assumes that each eligible employee will utilize the full paid family leave available. It is assumed that the 8 weeks of paid family leave will be taken concurrently with the current length of time allowed by FMLA under State Personnel Rule, which is 13 weeks per rolling twelve-month period. If an employee utilizes more than 8 weeks of family leave, it is assumed the additional weeks will be covered through annual leave, sick leave, or both.

The assumptions above were applied to a list of job classifications that are critical to daily business operations and therefore require additional funding to backfill. The list of job classifications that were deemed critical is included as Attachment A.

Supplemental, 1331 Supplemental or Budget Amendment Criteria:

Not applicable.

State of Colorado Job Classifications that Require Backfill

Job Classifications	
CHAPLAIN I	LABOR/EMPLOYMENT SPEC II
CHILD CARE AIDE	LABOR/EMPLOYMENT SPEC III
CLIENT CARE AIDE I	LABOR/EMPLOYMENT SPEC INT
CLIENT CARE AIDE II	LABOR/EMPLOYMENT SPEC IV
CLINICAL THERAPIST I	LABOR/EMPLOYMENT SPEC V
CLINICAL THERAPIST II	LABORATORY TECHNOLOGY I
CLINICAL THERAPIST III	LABORATORY TECHNOLOGY II
CLINICAL THERAPIST IV	LABORATORY TECHNOLOGY III
CORR SUPP TRADES SUPV I	LABORATORY TECHNOLOGY IV
CORR/YTH/CLIN SEC OFF I	MENTAL HLTH CLINICIAN I
CORR/YTH/CLIN SEC OFF II	MENTAL HLTH CLINICIAN II
CUSTODIAN I	MENTAL HLTH CLINICIAN III
CUSTODIAN II	MID-LEVEL PROVIDER
CUSTODIAN III	MUSEUM GUIDE
CUSTODIAN IV	NURSE I
DENTAL CARE I	NURSE II
DENTAL CARE II	NURSE III
DENTAL CARE IV	PHARMACIST I
DENTAL CARE V	PHARMACIST II
DENTIST I	PHARMACIST III
DENTIST II	PHARMACY TECHNICIAN I
DENTIST III	PHARMACY TECHNICIAN II
DIETITIAN II	PHYSICIAN I
DINING SERVICES I	PHYSICIAN II
DINING SERVICES II	SOCIAL WORK/COUNSELOR I
DINING SERVICES III	SOCIAL WORK/COUNSELOR II
DINING SERVICES IV	SOCIAL WORK/COUNSELOR III
DINING SERVICES V	SOCIAL WORK/COUNSELOR IV
EARLY CHILDHOOD EDUC I	STATE TEACHER AIDE
EARLY CHILDHOOD EDUC II	STATE TEACHER I
GUARDSMEN	STATE TEACHER II
HCS TRAINEE I	STATE TEACHER III
HCS TRAINEE II	STATE TEACHER IV
HCS TRAINEE III	TECHNICIAN I
HEALTH CARE TECH I	TECHNICIAN II
HEALTH CARE TECH II	TECHNICIAN III
HEALTH CARE TECH III	TECHNICIAN IV
HEALTH CARE TECH IV	TECHNICIAN V
HEALTH PROFESSIONAL I	THERAPY ASSISTANT I
HEALTH PROFESSIONAL II	THERAPY ASSISTANT II
HEALTH PROFESSIONAL III	THERAPY ASSISTANT III
HEALTH PROFESSIONAL IV	THERAPY ASSISTANT IV
HEALTH PROFESSIONAL V	VETERINARY TECHNOLOGY I
HEALTH PROFESSIONAL VI	VETERINARY TECHNOLOGY II
HEALTH PROFESSIONAL VII	VETERINARY TECHNOLOGY III
LABOR/EMPLOYMENT SPEC I	VETERINARY TECHNOLOGY IV

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State Services Section

December 6, 2019

TO: Kara Veitch
Executive Director
Department of Personnel and Administration

FROM: Evan Brennan
Assistant Attorney General
State Services Section, Labor and Personnel Unit

THRU: John Lizza
First Assistant Attorney General
State Services Section, Labor and Personnel Unit

RE: Personnel Director's Authority to Implement Paid Parental Leave

The opinions contained in this memorandum are the author's alone, and do not reflect the opinion of the Attorney General.

Question Presented: Does the Personnel Director possess authority to adopt and implement a new form of employee leave (in this case paid parental leave) for employees in the state personnel system?

Short Answer: Yes, the Personnel Director is empowered to adopt and implement new leave policies, including paid parental leave, for state employees. Paid parental leave is not one of the enumerated types of leave set forth in the State Personnel System Act, § 24-50-101, et seq., and therefore it is left to the Personnel Director to "prescribe procedures for the types, amounts, and conditions for all leave benefits that are typically consistent with prevailing practices[.]" § 24-50-104(1)(g), C.R.S. (2018).

Analysis: The Department of Personnel and Administration's Executive Director also serves as the state Personnel Director, who is charged with administering the state's personnel system under the state constitution, laws enacted pursuant thereto, and the rules adopted thereunder by the state personnel

board. Colo. Const. art. XII, § 14(4). The Personnel Director oversees the state’s “total compensation philosophy,” including salary and leave, and is charged with adopting “appropriate procedures to determine and maintain other elements of total compensation.” § 24-50-104(1)(a)(I) & (II). The Director’s administration of the state personnel system is “guided and constrained by constitutional, statutory and regulatory provisions.” *Dep’t of Corrections Employees Coalition v. Romer*, 879 P.2d 485, 488 (Colo. App. 1994).

The General Assembly has declared that “[i]t is the policy of the state to provide prevailing total compensation to officers and employees in the state personnel system to ensure the recruitment, motivation, and retention of a qualified and competent work force.” § 24-50-104(1)(a)(I), C.R.S. (2018). As used in section 24-50-104, “total compensation’ includes, but is not limited to, salary, group benefit plans, retirement benefits, merit pay, incentives, premium pay practices, *and leave*.” § 24-50-104(1)(a)(I), C.R.S. (2018) (emphasis added). As to salaries, group benefit plans, and merit pay, the Personnel Director is required to annually review the results of appropriate surveys, but for all other elements of total compensation, including leave benefits, the Personnel Director simply must “adopt appropriate procedures to determine and maintain” these elements. § 24-50-104(1)(a)(II), C.R.S. (2018).

Section 24-50-104(7) specifically addresses certain leave benefits by:

- (1) expressly limiting the accrual, retention, conversion, and use of sick leave;
- (2) expressly limiting the accrual and retention of leave for donating organs, tissue, or bone marrow; (3) authorizing the Personnel Director to allow the transfer of annual leave between employees in certain circumstances; and (4) authorizing limited paid leave for employees who serve as disaster relief volunteers. §§ 24-50-104(7)(a)-(d), C.R.S. (2018). Subsection (7) does not refer to or discuss paid parental leave, and does not define the term “sick leave.”

Beyond the leaves expressly created and governed by statute in subsection (7), the General Assembly requires the Personnel Director to “prescribe procedures for the types, amounts, and conditions for all leave benefits that are typically consistent with prevailing practices, subject to the provisions governing the benefits provided in subsection (7) of this section. The general assembly shall approve any changes to the leave benefits granted by statute before such changes are implemented. The state personnel director shall prescribe by procedure any nonstatutory benefits.” § 24-50-104(1)(g), C.R.S. (2018). That is, the statute expressly vests the Personnel Director with discretion to create and govern new “types” of leave benefits beyond those specifically addressed in statute, provided that they are “typically consistent with prevailing practices[.]” And while the General Assembly has reserved the right to approve any changes to those leave benefits provided by statute in subsection (7), the Personnel Director otherwise has

the power to “prescribe procedures for the types, amounts, and conditions” for all leave benefits.

The Personnel Director has used this grant of authority to adopt, through rulemaking, leave benefits that go beyond those expressly contemplated by statute. Rules governing leaves are located at 4 C.C.R. 801-1, Chapter 5, and types of leave provided for in the rules include, for instance, bereavement leave (§ 5-12), jury leave (§ 5-14), administrative leave (§ 5-15), unpaid leave (§ 5-17), and parental academic leave (§ 5-18). The rules set forth the amounts and conditions for each type of leave.

In sum, the legislature has vested the Personnel Director with significant discretion to determine what types of leave, and in what amounts, should be offered to state employees as part of the state’s total compensation policy. The Personnel Director has previously availed herself of this authority and has adopted various types of leave that are not expressly contemplated by statute, with the goal of keeping the state a competitive employer in the labor market. It would be consistent with this grant of statutory authority, and with historical practice, for the Personnel Director to adopt paid parental leave as a benefit for state employees should she determine, pursuant to the “appropriate procedures” she has adopted, that paid parental leave is “typically consistent with prevailing practices[.]”

Conclusion: For the foregoing reasons, we believe that, should the Personnel Director determine that paid parental leave is “typically consistent with prevailing practices” for determining “total compensation,” she is empowered to adopt a paid parental leave benefit for employees in the state personnel system.

We hope this memorandum is helpful. Please let us know if we may be of further assistance.

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Paid Leave for State Employees
January 2019

Arkansas

The state passed [SB 125](#) in 2017, which provides four weeks of paid maternity leave to state employees. Maternity leave can be granted due to the birth of a biological child or placement of an adoptive child in the home of the employee. [According to](#) the governor's office, there is technically no cost to taxpayers as the maternity leave program will be run through a reorganized leave bank (formerly a catastrophic leave bank) that was already accounted for in the state budget.

AK Stat. § 21-4-209. *Maternity leave*

(a) Maternity leave shall be treated as any other leave for sickness or disability. Accumulated sick leave and annual leave, if requested by the employee, shall be granted for maternity use, after which leave without pay may be used.

(b) Catastrophic leave under § 21-4-214 may be used for maternity leave.

California

Public sector employees are covered. Paid Family Leave insurance is run through the Temporary Disability Insurance program funded by payroll deductions of 0.9% from employee wages. (Capped at wages above \$106,742 per year.) The law provides six weeks of paid parental leave with a wage replacement of 55% of worker's average weekly wage with a maximum of \$1,252 per week in 2018.

See Cal.Un.Ins.Code § 3303. *Eligibility*, Employment Development Dept. State Employees [webpage](#)

DC

The D.C. government is NOT a covered employer under the state universal paid family leave law.

DC Stat. § 32-541.01. *Definitions*.

(4) "Covered employer" means:

(A) Any individual, partnership, general contractor, subcontractor, association, corporation, business trust, or any group of persons who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of an employee and is required to pay unemployment insurance on behalf of its employees by [§ 51-103](#); provided, that the term "covered employer" shall not include the United States, the District of Columbia, or any employer that the District of Columbia is not authorized to tax under federal law or treaty; or

(B) A self-employed individual who has opted into the paid-leave program established pursuant to this subchapter.

...

Delaware

The state enacted legislation in 2018 ([HB 3](#)) to provide state employees with 12 weeks of paid leave upon birth or adoption of a child at 100 percent of their regular rate of pay. A fiscal note for [a similar legislative proposal](#) estimated an annual cost of \$3.9 million.

Indiana

An [Executive Order](#) (17-31) issued in 2017 provided state employees who had been employed for at least six consecutive months with 150 hours of paid leave.

See Executive [Summary](#), Paid Family Leave [FAQ](#)

Kansas

An [executive order](#) (18-19) issued in 2018 provided state employees under the jurisdiction of the governor with six weeks of paid parental leave at 100 percent of their regular salary.

Department of Administration Bulletin: [Paid Parental Leave for State of Kansas Employees](#)

Maryland

Legislation enacted in 2018 ([SB 859](#)) provides state employees with 60 days of paid leave after the birth or adoption of a child.

See [State Parental Leave Policy](#)

Massachusetts

The state government is a covered employer under the recent state universal paid family leave law. Benefits do not become effective until 2021. Employees will be eligible for 12 weeks of family leave. The program is funded by a statewide 0.63 payroll tax on employees. The maximum weekly benefit is \$850

MA Stat. Title 175M § 1. *Definitions*

“Employer”, shall have the same meaning as provided in subsection (i) of section 1 of chapter 151A; provided, however, that an individual employer shall be determined by the Federal Employer Identification Number; provided further, that the department of early education and care shall be deemed the employer of family child care providers, as defined in subsection (a) of section 17 of chapter 15D; provided further, that the PCA quality home care workforce council established in section 71 of chapter 118E shall be the employer of personal care attendants, as defined in section 70 of said chapter 118E; provided further, that any employer not subject to this chapter may become a covered employer under this chapter by notifying the department of family and medical leave and completing the procedure established by the department; and provided further, that a municipality, district, political subdivision or its instrumentalities shall not be subject to this chapter unless it adopts this chapter under section 10.

New Jersey

Paid Family Leave [Law](#) applies to private and public sector employers covered by the state Unemployment Compensation Law. Workers are eligible for six weeks of family leave (increases to 12 weeks effective 7/1/2020) at 66 percent of a worker’s average weekly wage with a maximum benefit of \$650.

New Mexico

Beginning in 2020 all state employees are eligible to take up to 12 weeks of paid time off (100% wage replacement) to care for a new child. The governor's office has [estimated](#) an annual cost of \$5 million.

[Executive Order 2019-036](#)

North Carolina

Eight weeks of leave are available to state employees who have given birth. Employees with newly adopted children are eligible for four weeks. Employees receive 100% wage replacement.

[Executive Order 95](#) (2019)
[Paid Parental Leave Guidelines](#)

Ohio

Employees can take up to four weeks of leave at 70 percent of their regular rate of pay upon the birth or adoption of a child.

Ohio Stat. § 124.136 *Parental leave*

(A)(1) Each permanent full-time and permanent part-time employee paid in accordance with section 124.152 of the Revised Code and each employee listed in division (B)(2) or (4) of section 124.14 of the Revised Code who works thirty or more hours per week, and who meets the requirement of division (A)(2) of this section is eligible, upon the birth or adoption of a child, for a parental leave of absence and parental leave benefits under this section. Parental leave of absence shall begin on the day of the birth of a child or on the day on which custody of a child is taken for adoption placement by the prospective parents.

(2) To be eligible for leave and benefits under this section, an employee must be the biological parent of a newly born child or the legal guardian of and reside in the same household as a newly adopted child. Employees may elect to receive two thousand dollars for adoption expenses in lieu of receiving the paid leave benefit provided under this section. Such payment may be requested upon placement of the child in the employee's home. If the child is already residing in the home, payment may be requested at the time the adoption is approved.

(3) The average number of regular hours worked, which shall include all hours of holiday pay and other types of paid leave, during the three-month period immediately preceding the day parental leave of absence begins shall be used to determine eligibility and benefits under this section for part-time employees, but such benefits shall not exceed forty hours per week. If an employee has not worked for a three-month period, the number of hours for which the employee has been scheduled to work per week during the employee's period of employment shall be used to determine eligibility and benefits under this section.

(B) Parental leave granted under this section shall not exceed six continuous weeks, which shall include four weeks or one hundred sixty hours of paid leave for permanent full-time employees and a prorated number of hours of paid leave for permanent part-time employees. All employees granted parental leave shall serve a waiting period of fourteen days that begins on the day parental leave begins and during which they shall not receive paid leave under this section. Employees may choose to work during the waiting period. During the remaining four weeks of the leave period, employees shall receive paid

leave equal to seventy per cent of their base rate of pay. All of the following apply to employees granted parental leave:

- (1) They remain eligible to receive all employer-paid benefits and continue to accrue all other forms of paid leave as if they were in active pay status.
- (2) They are ineligible to receive overtime pay, and no portion of their parental leave shall be included in calculating their overtime pay.
- (3) They are ineligible to receive holiday pay. A holiday occurring during the leave period shall be counted as one day of parental leave and be paid as such.

...

Rhode Island

The state of Rhode Island is a covered employer under the state universal paid family leave law. It is run out of the state's temporary disability insurance program and is funded by a 1.2% payroll deduction from employee wages (capped at wages above \$66,300 per year. Workers are eligible for four weeks of paid family leave. The wage replacement amount is 4.62% of wages paid during the highest quarter of the worker's base period (i.e. roughly 60 percent of the worker's average weekly wage) with a maximum benefit amount of \$795 per week.

[RI Gen. Laws § 28-48-1. Definitions](#)

As used in this chapter, the following words and terms have the following meanings:

- (1) "Director" means the director of the department of labor and training.
- (2) "Employee" means any full-time employee who works an average of thirty (30) or more hours per week.
- (3) "Employer" means and includes:
 - (i) any person, sole proprietorship, partnership, corporation, or other business entity that employs fifty (50) or more employees,
 - (ii) the state of Rhode Island, including the executive, legislative, and judicial branches, and any state department or agency that employs any employees,
 - (iii) any city or town or municipal agency that employs thirty (30) or more employees, and
 - (iv) any person who acts directly or indirectly in the interest of any employer.

Virginia

State employees are eligible for 8 weeks of paid leave at 100% of their regular salary upon the birth, adoption, or foster placement of a child.

2018 [Executive Order](#)

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, I hereby authorize the creation of Paid Parental Leave for employees of executive branch agencies (Agencies) in the Commonwealth under the following parameters:

1. A classified or at-will employee who has been employed by the Commonwealth for a minimum of twelve (12) consecutive months is eligible for parental leave (Eligible Employee).
- 2
2. Following the birth, adoption, or foster placement of a child younger than 18 years of age:

☐ An Eligible Employee will receive eight (8) weeks (320 hours) of parental leave; and

☐ If both parents are Eligible Employees, each shall receive parental leave, which may be taken concurrently, consecutively, or at different times.

3. Parental leave shall be taken within six (6) months following the birth, adoption, or foster placement of the child.

4. Parental leave shall only be taken once in a 12-month period and only once per child.

5. Parental leave shall be provided at 100% of the Eligible Employee's regular salary.

6. Parental leave shall not be counted against an Eligible Employee's annual or sick leave.

7. Legal holidays listed in § 2.2-3300 of the Code of Virginia shall not be counted against parental leave.

8. Parental leave shall run concurrently with leave provided under the Family and Medical Leave Act, if the employee is eligible.

9. Parental leave may run concurrently or sequentially with VSDP, if the employee is eligible for VSDP.

The Department of Human Resource Management (DHRM or Department) shall establish policy and guidance documents to support implementation of this Executive Order.

VA Code Ann. § 51.1-1110. *Short-term disability benefit*

Except as provided in subsections C and E of this section and [§ 51.1-1131](#), short-term disability coverage shall provide income replacement for a percentage of a participating employee's creditable compensation during the period specified below that an employee is disabled, on **maternity leave**, or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, based on the number of months of state service as an eligible employee, as follows:

Months of state service	Work days of 100% replacement of creditable compensation	Work days of 80% replacement of creditable compensation	Work days of 60% replacement of creditable compensation
Less than 60	5	20	100
60 to 119	25	25	

Washington

Washington Paid Leave [Law](#) covers all employers. It established an insurance program that is funded by a 0.4% payroll deduction paid by employees. Benefits are not effective until 2020. Employees are eligible for 12 weeks of family leave. Workers paid 50% or less than the statewide average weekly wage receive 90% of their average weekly wage. Workers who are paid more than 50% than the statewide average weekly wage receive 90% of their average weekly wage up to 50% of the statewide average weekly wage. The wage replacement is only 50% for wages that exceed the statewide average weekly wage. The maximum benefit is \$1000 per week.